

IN THE DISTRICT COURT OF GUAM
TERRITORY OF GUAM

UNITED STATES OF AMERICA,)	Criminal Case No. 18-00010
)	
Plaintiff,)	
)	
vs.)	
)	
JOHN D. WALKER, et al.,)	
)	
_____ Defendants.)	

TRIAL TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE FRANCES TYDINGCO-GATEWOOD,
CHIEF JUDGE
JUNE 8, 2022 - AUGUST 22, 2022; 10:01 A.M.
HAGATNA, GUAM

Testimony of Viranousith Khamvongsa

(Jury Trial Excerpt)

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I N D E X

	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
<u>GOVERNMENT</u>				
<u>WITNESS:</u>				
Viranousith Khamvongsa	6 (SM/MM)	758 (EM) 841 (MM)	994 (MM) 1220 (MM)	1202 (MM)

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June 8, 2022; 10:01 a.m.; Hagatna, Guam

* * *

(Beginning of excerpt.)

THE CLERK: Sir, please state your name and spell
your name for the record.

THE WITNESS: May I be seated? Thank you. Good
morning, my name is Viranousith Khamvongsa and I reside in
Guam. Last name is Khamvongsa, that's K-H-A-M, as in Mike,
V-O-N-G-S-A.

COURT REPORTER: Can you spell your first name?

THE WITNESS: Viranousith. Common spelling,
V-I-R-A-N-O-U-S-I-T-H.

DIRECT EXAMINATION

THE COURT: You may proceed.

BY MS. S. MILLER:

Q. Okay, good morning, Agent Khamvongsa.

A. Good morning.

Q. Good morning, ladies and gentlemen of the jury.

THE JURY: Good morning.

BY MS. S. MILLER: (CONTINUING)

Q. Agent Khamvongsa, can you please describe your
educational background for the jury?

Direct - Khamvongsa

1 A. I graduated with an accounting degree from the
2 University of Alaska. It's a BBA, bachelor of business
3 administration, with a minor in management information
4 systems.

5 Q. And what year is that, sir?

6 A. I graduated in 2002.

7 Q. Could you please tell the jury, what was your first
8 job out of college assuming you had one?

9 A. My first job I graduated -- upon graduation, I was
10 immediately hired by IRS Criminal Investigation as a Special
11 Agent.

12 Q. And where do you currently work, Agent Khamvongsa?

13 A. I am still a Special Agent with IRS Criminal
14 Investigation.

15 Q. How long have you been a special agent with the IRS?

16 A. Almost 20 years.

17 Q. Could you please tell the jury a little bit about
18 your duties as a criminal investigator for the IRS?

19 A. As a Special Agent, I investigate crimes that -- like
20 tax fraud or tax evasion, failing to file a false return -- or
21 failing to file returns, filing a false return, impeding the
22 IRS. But in addition to enforcing the internal revenue code,
23 I also investigate other financial crimes, such as money
24 laundering and the money and banking statutes.

25 Q. Did you have to do any special training to become an

Direct - Khamvongsa

1 IRS special agent?

2 A. Yes, upon -- upon graduating, I immediately went to
3 the federal law enforcement training center where I spent six
4 months. While there, I was attending the federal law
5 enforcement training center to do special agent training. And
6 then after a couple months of that, what we learned
7 investigative techniques in the law and how to apply it as a
8 special agent. We take on our agency-specific classes at the
9 federal law enforcement training center.

10 Q. Have you done any special training since that first
11 initial training?

12 A. We take CPEs, or continued professional education, on
13 a yearly basis.

14 Q. Special Agent Khamvongsa, where are you located?

15 A. I currently am here in the Guam, but I also cover the
16 CNMI.

17 Q. How long have you been located in the Guam/CNMI
18 office?

19 A. I've been here since September 2010.

20 Q. And where were you prior to that?

21 A. I was in Anchorage, Alaska.

22 Q. Sir, can you tell the jury a little bit about the
23 training specifically that you received regarding money
24 laundering?

25 A. Money laundering, that took place in the federal law

Direct - Khamvongsa

1 enforcement training center while I was there in 2002. In 10:05AM
2 addition, we get yearly training on the various money 10:05AM
3 laundering statutes as it applies. And in addition, in the 10:05AM
4 course of our training, in order to prove money laundering, we 10:05AM
5 have to identify the underlying criminal activity that occurs, 10:05AM
6 then money laundering occurs thereafter. 10:05AM

7 Q. Okay. Okay, before we go on to the underlying 10:05AM
8 criminal activity, can you just tell the jury what is money 10:05AM
9 laundering? 10:05AM

10 A. Money laundering is a three-step process. Upon 10:05AM
11 identifying where the source of the funds are coming from, in 10:05AM
12 this case, I'll use the example -- 10:05AM

13 MR. MARTIN: Your Honor, I object to -- the Court 10:05AM
14 will instruct the jury on what money laundering is and this is 10:05AM
15 trying to go way beyond that. I object. 10:06AM

16 THE COURT: All right. Let me just hear the last 10:06AM
17 question. I'm sorry. I just was talking to my jury 10:06AM
18 administrator. Hold on. Last question? Or was it his 10:06AM
19 answer, was that -- 10:06AM

20 MR. MARTIN: It was the question and the answer. 10:06AM

21 THE COURT: Let me just hear the question real 10:06AM
22 quick, please. 10:06AM

23 (Whereupon the reporter read back requested 10:06AM
24 portion.) 10:06AM

25 THE COURT: That's okay. Thank you. I'm sorry, 10:06AM

1 Veronica, I didn't mean to cut you off. I appreciate it. The
2 Court will sustain the objection. There will be a definition
3 of money laundering, ladies and gentlemen. So the Court will
4 sustain that.

5 BY MS. S. MILLER: (CONTINUING)

6 Q. Special Agent Khamvongsa, you mentioned that in order
7 to prove money laundering, you have to have some underlying
8 criminal activity.

9 Can you give the members of the jury of the some
10 examples of the types of underlying criminal activities that
11 you have investigated to prove money laundering?

12 MR. MARTIN: Well, Your Honor, I again object.

13 MS. S. MILLER: I asked the types.

14 THE COURT: Hold on. Let me hear the objection,
15 Counsel. Don't interrupt. What's the objection?

16 MR. MARTIN: I again object to him defining what
17 underlying criminal activity is. There's going to be a
18 definition of that in the Court's instructions.

19 THE COURT: Okay. Go ahead. You can respond.

20 MS. S. MILLER: Yes, Your Honor. I didn't ask
21 him to define it. I asked for the types of underlying crimes
22 he has investigated to prove money laundering.

23 THE COURT: All right. The Court will overrule
24 that objection then. And he may testify as to the type of
25 investigations that he's conducted in regard to this

Direct - Khamvongsa

1 particular area.

10:07AM

2 THE WITNESS: Thank you, Your Honor.

10:07AM

3 THE COURT: You may proceed.

10:07AM

4 THE WITNESS: One more time, please.

10:07AM

5 BY MS. S. MILLER: (CONTINUING)

10:07AM

6 Q. Sure. You mentioned that there were -- in order to
7 prove money laundering, there has to be some underlying crime.
8 Could you tell the members of the jury the types of underlying
9 crimes you've investigated to prove money laundering, the
10 types?

10:07AM

10:07AM

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10:07AM

10:07AM

11 A. The types of crimes in my career, I've investigated
12 that are the underlying crimes for money laundering include
13 visa fraud, wire fraud, and drug trafficking.

10:07AM

10:08AM

10:08AM

14 Q. Thank you. Now, you stated that you've done a lot of
15 investigating of tax-related crimes. Can you please tell the
16 jury what's tax fraud?

10:08AM

10:08AM

10:08AM

17 A. Tax fraud includes tax evasion, failing to file a tax
18 return. So for example, if an individual is -- files a tax
19 return where they're only reporting, let's say \$10,000 as
20 their gross income or what they make in that year, yet their
21 bank account represents a deposit of \$1 million and they took
22 steps to evade that reporting, that would go to the tax
23 evasion, like the steps of like creating a corporation where
24 they sign the income to the corporation saying that belongs to
25 the corporation. These are steps they take to hide the money

10:08AM

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1 from the IRS. And the tax return itself is signed under 10:09AM
2 penalties of perjury. So the information within the document 10:09AM
3 is relied upon by the government as being true and correct. 10:09AM

4 So when that information is submitted and there is 10:09AM
5 other documents or other pieces of evidence showing that it's 10:09AM
6 something completely different, that would -- I would then 10:09AM
7 move forward and present that to the U.S. Attorney's Office 10:09AM
8 or... 10:09AM

9 Q. So Special Agent Khamvongsa, when you're looking at 10:09AM
10 the different types of documents related to a tax 10:09AM
11 investigation, as you compare them, what generally speaking 10:09AM
12 are you looking for? 10:09AM

13 A. So, initially, in the course of my investigation, I 10:09AM
14 rely on the tax return. Again, it's a document that's 10:09AM
15 submitted to the government in good faith. And from there, I 10:09AM
16 identify what the allegation may be. So if it's tax evasion, 10:09AM
17 we'll say, I have to identify where on that tax return they 10:09AM
18 were -- there was some -- 10:10AM

19 MR. MARTIN: Your Honor, I object, this is a 10:10AM
20 narrative. She said what documents did you look at. Now, 10:10AM
21 he's going into detail about -- 10:10AM

22 THE COURT: Okay, objection is narrative. The 10:10AM
23 Court will sustain. 10:10AM

24 BY MS. S. MILLER: (CONTINUING) 10:10AM

25 Q. When you -- when you're looking at the different 10:10AM

Direct - Khamvongsa

1 kinds of documents, what are you looking as you compare them? 10:10AM

2 What are you looking for? 10:10AM

3 A. When I'm looking at the documents, I'm looking at 10:10AM
4 patterns of inconsistencies or misrepresentations within the 10:10AM
5 document. 10:10AM

6 Q. What do you do to determine the accuracy with respect 10:10AM
7 to inconsistencies? 10:10AM

8 A. I review the records that are submitted to the 10:10AM
9 government, which are often under penalties of perjury, which 10:10AM
10 are being truthful and accurate by the taxpayer, and then I 10:10AM
11 look at records, such as bank records, records filed with 10:10AM
12 other government agencies, records maintained with other 10:10AM
13 businesses and I compare that to what is reported with the 10:11AM
14 government; in this case, the IRS. 10:11AM

15 Q. When you look at that type of information that's 10:11AM
16 submitted to government agencies, do you use any other 10:11AM
17 investigative tools to obtain additional evidence? 10:11AM

18 A. Yes. I also use subpoenas or summonses. 10:11AM

19 Q. Could you please tell the jury what subpoenas and 10:11AM
20 summonses are? 10:11AM

21 A. It's a tool that compels an individual or business to 10:11AM
22 provide records to the government. 10:11AM

23 Q. And in your 20 years of experience as a criminal 10:11AM
24 investigator, what type of information do you normally obtain 10:11AM
25 with a subpoena? 10:11AM

1 A. The information I generally obtain with a subpoena,
2 include bank records, they may be invoices from a retail
3 store, or a car dealership or even an individual or an
4 accountant.

5 Q. Could you tell the jury what the difference between a
6 subpoena and a summons is?

7 A. A summons is an agency-specific tool to compel
8 documents or witness testimony. And a subpoena comes from the
9 grand jury and I make the request through the U.S. Attorney's
10 Office.

11 Q. Okay. So for summons purposes, as an IRS
12 investigator and agent, it would be an IRS summons?

13 A. Yes.

14 Q. Okay. Who does the information -- how would you
15 generalize about who the information that responds to summons
16 and subpoenas comes from? How would you generalize those
17 entities?

18 MS. MCCONWELL: Your Honor, I object to the form
19 of the question.

20 THE COURT: Yeah, that's kind of vague and
21 ambiguous. You want to rephrase that? Court will sustain
22 that.

23 MS. S. MILLER: Sure.

24 BY MS. S. MILLER: (CONTINUING)

25 Q. Typically in your work with the IRS, are you issuing

1 subpoenas to defendants or other organizations?

2 A. To other organizations. But if I were to issue a
3 summons, I would notify the bank holder, like the
4 accountholder that we are subpoenaing their -- or issuing a
5 summons for their bank records.

6 Q. Do grand jury subpoenas require notice to the
7 accountholder that you're looking for a bank account
8 information?

9 A. No.

10 Q. So is that another difference that differentiates
11 summons versus subpoenas?

12 A. Yes.

13 Q. A notice?

14 A. The grand jury is more --

15 MS. MCCONWELL: Your Honor, I object to
16 relevance. Leading -- and leading.

17 THE COURT: Okay --

18 MS. S. MILLER: Just trying to provide some
19 general information.

20 THE COURT: Okay, overruled and then sustained on
21 leading.

22 MS. S. MILLER: Sure.

23 BY MS. S. MILLER: (CONTINUING)

24 Q. Special Agent Khamvongsa, once you get information in
25 response to grand jury subpoenas, what do you do with that

Direct - Khamvongsa

1 information? 10:13AM

2 A. I review them and I analyze them. 10:13AM

3 Q. How many criminal investigations have you 10:13AM
4 participated in, throughout your over 20 years as a special 10:13AM
5 agent for the IRS? 10:13AM

6 A. How many criminal investigations? 10:13AM

7 Q. Yes. 10:14AM

8 A. A lot. At least 40, alone. 10:14AM

9 Q. And what about with respect to, specifically, wire 10:14AM
10 fraud investigations? 10:14AM

11 A. I would say, at least 20. 10:14AM

12 Q. 20 of those -- 10:14AM

13 A. Of being wire fraud, yes; correct. 10:14AM

14 Q. Okay. What about with respect to money laundering 10:14AM
15 investigations? 10:14AM

16 A. The money laundering, at least the same number; about 10:14AM
17 20. 10:14AM

18 Q. Okay. How about with criminal tax fraud? 10:14AM

19 A. Prior to my -- prior to doing money laundering and 10:14AM
20 wire fraud, I was focused primarily on tax cases. So the 20 10:14AM
21 -- about 20. 10:14AM

22 Q. Now, as a special agent for the IRS, let's talk a 10:14AM
23 little bit more about the sources of evidence. How do you use 10:14AM
24 evidence obtained from experts? 10:14AM

25 A. How I do use -- I use that information to corroborate 10:14AM

Direct - Khamvongsa

1 the documents. My cases are paper-intensive. So the witness
2 testimony or the expert testimony goes to creating a bigger
3 picture or better understanding of what is reported on a piece
4 of paper.

5 Q. How do you use evidence obtained from trial
6 testimony?

7 A. Trial testimony is the same thing. It's under oath,
8 so it has a little bit more weight to it versus just an
9 interview. So I use that information to corroborate, again,
10 what a piece of paper says.

11 Q. And specifically with respect to this trial, have you
12 been listening to all the testimony throughout the trial?

13 A. Yes.

14 Q. How do you use evidence obtained through interviews?

15 A. Interviews, the same way; I utilize that information
16 to corroborate what a document says.

17 Q. Do you ever use evidence obtained from foreign
18 records?

19 A. Yes, I do use -- I do review foreign records.

20 Q. How do you use those foreign records?

21 A. A lot of times, again, when records or when documents
22 are completed, most of the documents that I've reviewed are
23 signed and they're certifying that the information is true and
24 accurate. So there is a re -- there is a good faith basis
25 that the information they're providing whether it's a foreign

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1 entity or a bank or any other agency -- 10:16AM

2 MS. MCCONWELL: Your Honor, I think we're onto a 10:16AM
3 narrative. 10:16AM

4 THE COURT: I'm sorry? 10:16AM

5 THE WITNESS: -- good faith. 10:16AM

6 MS. MCCONWELL: I object to narrative. 10:16AM

7 THE COURT: All right. Sustained. 10:16AM

8 BY MS. S. MILLER: (CONTINUING) 10:16AM

9 Q. Can you tell the jury a little bit about how you use 10:16AM
10 records obtained through search warrants? 10:16AM

11 A. Um, I review that information, I analyze it and I 10:16AM
12 compare it to what other documents may or may not say. 10:16AM

13 Q. Now, can you tell the jury a little bit about the 10:16AM
14 difference between evidence obtained from third parties, like 10:16AM
15 banks versus typically what you obtained through search 10:16AM
16 warrants? 10:16AM

17 A. Documents obtained from third parties, such as banks, 10:16AM
18 again, when those information -- that information is reliable 10:16AM
19 because the information presented to the bank is based on good 10:16AM
20 faith, a lot of times again it's being submitted -- that is 10:16AM
21 being true and correct to the bank. 10:17AM

22 MS. MCCONWELL: Your Honor, I object. This is 10:17AM
23 also a narrative. 10:17AM

24 THE COURT: Okay. Sustained. 10:17AM

25 MS. MCCONWELL: And it's inserting nonresponsive 10:17AM

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1 information.

10:17AM

2 THE COURT: All right. Sustained.

10:17AM

3 BY MS. S. MILLER: (CONTINUING)

10:17AM

4 Q. How is that information different from evidence
5 obtained through search warrants?

10:17AM

10:17AM

6 A. The evidence comes from a different entity. And the
7 information is provided to me via grand jury subpoena or
8 summons.

10:17AM

10:17AM

9 Q. And just to clarify for the jury, typically search
10 warrant information comes from who?

10:17AM

10:17AM

11 A. It comes from oftentimes the -- or the defendant.

10:17AM

12 Q. What about corporate records, how do you use evidence
13 obtained through corporate records?

10:17AM

10:17AM

14 A. Again, I use corporate records to verify, invalidate
15 or corroborate other pieces of evidence, such as testimony.

10:17AM

10:17AM

16 Q. So in terms of the investigations that you've done,
17 tax fraud, money laundering and wire fraud, do you do those
18 investigations with respect to individuals and corporate
19 entities?

10:17AM

10:18AM

10:18AM

20 A. Yes.

10:18AM

21 Q. Have you received any training specifically in
22 investigating corporations?

10:18AM

10:18AM

23 A. Yes.

10:18AM

24 Q. Can you tell the jury a little bit about that
25 training?

10:18AM

10:18AM

1 A. The training, again, goes back to my time at the
2 federal law enforcement training center. And again, it
3 involves yearly training with the continued professional
4 education through my agency, the IRS.

5 Q. Can you please provide the jury with an example of
6 how a corporation might violate the law?

7 MR. MARTIN: I object to this. This is so
8 speculative and hypothetical.

9 THE COURT: Yeah. The Court will sustain the
10 objection.

11 BY MS. S. MILLER: (CONTINUING)

12 Q. Okay, Special Agent Khamvongsa, turning to your
13 investigation with respect to this case, are you familiar with
14 the indictment in this case?

15 A. Yes.

16 Q. How are you familiar with the indictment?

17 A. I've been involved since 2017 and I helped
18 investigate it since then.

19 Q. How did you first get involved in investigating this
20 case?

21 A. The U.S. Attorney's Office reached out and requested
22 my assistance to review records that were provided me from the
23 FBI search warrant in October 2016.

24 Q. And the records you initially looked at, where did
25 those come from?

Direct - Khamvongsa

1 A. Those records came from Hansen Helicopters. 10:19AM

2 Q. What has your role been in this investigation? 10:19AM

3 A. My role is to -- was to investigate any allegations 10:19AM
4 or the possibility of wire fraud and money laundering. 10:19AM

5 Q. In fulfilling that role, did you look for any 10:19AM
6 evidence of an agreement between persons to violate the law? 10:19AM

7 A. Yes. 10:19AM

8 Q. I'd like to show you what's been marked and admitted 10:19AM
9 as Exhibit G-302. Special Agent Khamvongsa, how did -- did 10:19AM
10 you review this document? 10:20AM

11 A. Yes. 10:20AM

12 Q. How did it inform your analysis? 10:20AM

13 A. This document was obtained via the search warrant. 10:20AM
14 And it contains submissions that were made by the defendant or 10:20AM
15 by Walker, Hansen Helicopters -- 10:20AM

16 MR. MARTIN: Your Honor, I object to this. 10:20AM
17 Everything he's saying is speculative. This is a business 10:20AM
18 plan. He's making generalizations that are not supported by 10:20AM
19 the document. He can say what the document says, but he can't 10:20AM
20 just come here -- this is what this means and this is what 10:20AM
21 that means. Wholly improper. 10:20AM

22 THE COURT: Just a minute. Okay. That's your 10:20AM
23 objection. What's -- yes, your objection? 10:20AM

24 MR. MARTIN: My objection -- mine or Ms. 10:21AM
25 McConwell? 10:21AM

Direct - Khamvongsa

1 THE COURT: Your objection is specifically 10:21AM
2 improper, it's not -- 10:21AM

3 MR. MARTIN: Yes, Your Honor. He can say what 10:21AM
4 the document says but he can't interpret the document that's 10:21AM
5 totally foreign to him. 10:21AM

6 THE COURT: All right. And then speculative. 10:21AM

7 MS. MCCONWELL: I add that it's a narrative. It 10:21AM
8 is beyond -- he was nonresponsive to the question. 10:21AM

9 THE COURT: All right. Let me hear the question 10:21AM
10 and answer, please. 10:21AM

11 (Whereupon the reporter read back requested 10:21AM
12 portion.) 10:21AM

13 MS. S. MILLER: May I respond, Your Honor? 10:21AM

14 THE COURT: No, not yet. Um... I mean, he 10:21AM
15 doesn't. He just says -- I mean, he answered the question. 10:21AM
16 He's not getting into a -- first of all he's not -- he's not 10:21AM
17 -- I don't think he's interpreting it. You think that answer 10:21AM
18 is interpretive. 10:21AM

19 MR. MARTIN: He was on the way, Judge. That's my 10:22AM
20 objection. 10:22AM

21 THE COURT: He was on the way. This is like 10:22AM
22 preventive? 10:22AM

23 MR. MARTIN: Correct. That's a preventive 10:22AM
24 objection, Your Honor. It's a new one I made up today. 10:22AM

25 THE COURT: That's that a new one because I never 10:22AM

1 heard that. All right, overruled. And then -- okay. So 10:22AM
2 yeah, it's overruled for right now. Let's just see -- just, 10:22AM
3 you know, I want to make it, Khamvongsa, right? 10:22AM

4 MS. S. MILLER: Very good. 10:22AM

5 THE COURT: Did I say that? 10:22AM

6 THE WITNESS: Yes, Your Honor. 10:22AM

7 THE COURT: I just put it on my posty here. Then 10:22AM
8 I put it phonetically. So Kham. K-H-A-M. Vongsa. 10:22AM

9 THE WITNESS: Yes, ma'am. 10:22AM

10 THE COURT: So you already know how to testify. 10:22AM
11 So avoid narratives and answer the question. I know you know 10:22AM
12 that because you testified in my court before. 10:22AM

13 THE WITNESS: Yes, Your Honor. 10:22AM

14 THE COURT: So, go ahead. 10:22AM

15 MS. S. MILLER: So, one second. Could we just 10:22AM
16 pull the Exhibit back up, please? 10:22AM

17 THE COURT: Sometimes you don't have to respond 10:22AM
18 because I'm just trying to -- 10:22AM

19 MS. S. MILLER: Yes, Your Honor. 10:22AM

20 THE COURT: -- figure out what the question is or 10:22AM
21 the objection. Go ahead. 10:22AM

22 BY MS. S. MILLER: (CONTINUING) 10:23AM

23 Q. Would you like to hear the question? 10:23AM

24 A. Yes, please. 10:23AM

25 Q. How did this document inform your analysis in this 10:23AM

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1 investigation?

10:23AM

2 A. It helped me identify the agreements.

10:23AM

3 Q. How?

10:23AM

4 A. There is specific statements within this document
5 that help me form that agreement, identify the agreements.

10:23AM

6 Q. Okay. Let's take a look, I believe it's page 3?

10:23AM

7 THE COURT: Of the same exhibit?

10:23AM

8 MS. S. MILLER: Yes, please.

10:23AM

9 THE COURT: So Exhibit 302-3. Is that what
10 you're talking about?

10:23AM

11 MS. S. MILLER: One second.

10:23AM

12 THE COURT: Just make sure you put on the record
13 what page we're looking at.

10:23AM

14 MS. S. MILLER: Yes, Your Honor, of course. This
15 is page 2. So Exhibit 302 page 2.

10:23AM

16 BY MS. S. MILLER: (CONTINUING)

10:23AM

17 Q. Special Agent Khamvongsa, can you please tell the
18 jury if there was anything specifically on this page that
19 informed your analysis?

10:23AM

20 A. In the bottom of the page, under Item No. 4, there is
21 a response. "It is all Hansen Helicopters."

10:24AM

22 Q. Before you go on, let's actually -- can you read the
23 question and then the response, please, in full?

10:24AM

24 A. Yes. "Some of the leases refer to Wilma's Flight
25 Service as the lessor and operator registered owner; whereas

10:24AM

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1 other leases do not. This is a -- is this a typo or is there
2 some explanation?"

3 Q. And then the answer, please?

4 A. "It is all Hansen Helicopters. All of the aircraft
5 are owned wholly by Hansen and its subsidiary companies and
6 all leases and contracts are basically with Hansen, John and
7 Ledger, were trying to spread out the liability through the
8 forming of the other companies. Everything is controlled by
9 Hansen, and John. They are synonymous."

10 Q. Thank you. Now, I'd like to show you what's been
11 previously admitted as G-304. Did you review this document in
12 your analysis, Special Agent Khamvongsa?

13 A. Yes.

14 Q. How did it inform your analysis?

15 A. This helped me identify the agreement that took
16 place, as well as one of the overt acts to prove the -- one of
17 the charges in the indictment, specifically conspiracy to
18 commit wire fraud or wire fraud itself.

19 Q. And when you say "overt act," what do you mean by
20 that?

21 A. That's a willful act taken by an individual, in this
22 case, Hansen Helicopters, Walker, Crowe, Reed and Kapp.

23 Q. Okay. Can you tell the jury -- first of all, can you
24 remind the jury what this document is?

25 A. This is a plea agreement. It is signed by Timothy J.

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1 Cislo.

2 Q. And I think the jury knows by now who Timothy Cislo
3 is, but can you tell them, please, what in this agreement
4 informed your analysis as to the overt acts?

5 MR. MARTIN: Your Honor, I object to him unless
6 he's going to read from the document, his opinion or his
7 interpretation of the document, I object to.

8 THE COURT: You're -- are you having him read
9 from the document?

10 MS. S. MILLER: Sure, yes, Your Honor.

11 THE COURT: All right. So...do you know where to
12 look?

13 MS. S. MILLER: Yes.

14 THE WITNESS: Yes.

15 THE COURT: Okay, go ahead. Is this a grand jury
16 indictment?

17 MS. S. MILLER: No, Your Honor, this is the Cislo
18 plea agreement.

19 THE COURT: Oh, the Cislo plea agreement.

20 MS. S. MILLER: Yes.

21 THE COURT: Okay. Very good.

22 BY MS. S. MILLER: (CONTINUING)

23 Q. Special Agent Khamvongsa, is there a particular page
24 you'd like to read from?

25 A. Yes, it's the Elements of the Offense and Factual

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1 Basis on page 3.

2 Q. Okay. Could we zoom in a little bit further, just so
3 it's a little bigger?

4 THE COURT: That has already been admitted,
5 right?

6 MS. S. MILLER: Yes, Your Honor.

7 THE COURT: So this has already been shown.
8 Jurors, you can see it? Okay. Very well. Go ahead.

9 BY MS. S. MILLER: (CONTINUING)

10 Q. Could you please read for the jury, Special Agent
11 Khamvongsa, the portion of this that informed your analysis?

12 A. Item No. 5.

13 Q. Feel free to please read it.

14 A. Okay. Thank you. "Defendants understand and agrees
15 that to establish the offense, honest services, wire fraud in
16 violation of 18 U.S. Section 1343, 1346 and 2, the United
17 States must prove each of the following elements beyond a
18 reasonable doubt.

19 First, the defendant devised or knowingly
20 participated in a scheme or plan to deprive the United States
21 and its citizens of their right of honest services.

22 Second, the scheme or plan consisted of a bribe. His
23 receipt of an aircraft in exchange for the defendant's
24 services. The exchange may be express or may be implied from
25 all the surrounding circumstances.

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1 Third, the defendant owed a fiduciary duty to the 10:27AM
2 United States and its citizens. 10:27AM

3 Fourth, the defendant acted with the intent to 10:27AM
4 defraud by depriving the United States and its citizens of 10:28AM
5 their right of honest services. 10:28AM

6 Fifth, the defendant's act was material, that is, it 10:28AM
7 had a natural tendency to influence or was capable of 10:28AM
8 influence[sic] a person or an entity's acts. 10:28AM

9 And sixth, the defendant used or caused someone to 10:28AM
10 use an interstate," I don't know what that other word is 10:28AM
11 that's written there, "a wire communication to carry out or to 10:28AM
12 attempt to carry out the scheme or plan." 10:28AM

13 Q. Thank you for that dramatic reading. Could you 10:28AM
14 please tell the jury what is honest services fraud? 10:28AM

15 A. I can give an -- 10:28AM

16 MR. MARTIN: Your Honor. 10:28AM

17 THE COURT: Yeah? You didn't like that -- 10:28AM

18 MR. MARTIN: The Court will instruct -- 10:28AM

19 THE COURT: You didn't like the dramatic reading? 10:28AM

20 MR. MARTIN: No, it was very dramatic, but my 10:28AM
21 objection is, the Court will instruct the jury on what the law 10:28AM
22 is in this case, because the question was, will you tell the 10:28AM
23 jury what honest services fraud is. 10:28AM

24 THE COURT: Yeah , so okay, so yeah, the -- yeah, 10:28AM
25 so the Court will sustain the objection. 10:28AM

1 MS. S. MILLER: No problem, Your Honor. 10:28AM

2 THE COURT: So ladies and gentlemen, let me just 10:28AM
3 tell you because some of you have been jurors and some of you 10:29AM
4 haven't. But as you know, I'm going to give a concluding jury 10:29AM
5 instructions. Remember how I gave opening instructions 10:29AM
6 earlier. But when you go in to deliberate, I will give you 10:29AM
7 concluding jury instructions and you will have a packet and 10:29AM
8 you'll be reading, but you'll also be reading it -- we'll have 10:29AM
9 it flashed on the screen. But it will have, it will have the 10:29AM
10 definitions of honest services and other -- other instructions 10:29AM
11 that we believe are appropriate that I have approved and I 10:29AM
12 worked closely with the defense counsels and the prosecutor 10:29AM
13 and those will be instructions that are relevant to your 10:29AM
14 consideration. So yeah, so when it comes to the law, I will 10:29AM
15 give that to you and the Court will sustain the objection. 10:29AM

16 MS. S. MILLER: Thank you, Your Honor. 10:29AM

17 BY MS. S. MILLER: (CONTINUING) 10:29AM

18 Q. If we could turn to page 4 of this document. So 10:29AM
19 304-4, please. 10:29AM

20 Now, Special Agent Khamvongsa, I'm not going to have 10:29AM
21 you read this entire page to the jury, but could you please 10:29AM
22 identify and then read -- identify the line and then read to 10:30AM
23 the jury any information on this page that informed your 10:30AM
24 investigation? 10:30AM

25 A. Again, you want me to read just the specific line? 10:30AM

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1 Q. Right. So if you're going to read anything, please
2 identify the line and then read it.

3 THE COURT: Do you want to point to him what line
4 he's going to read or --

5 BY MS. S. MILLER: (CONTINUING)

6 Q. Yeah. You can point to it, too, but for the
7 transcript you might as well say the line, please?

8 THE COURT: Okay.

9 THE WITNESS: We can go specifically to line 7 on
10 that page. "The defendant knew that the scheme or artifice
11 consisted of his receipt of a Taylorcraft BC12D aircraft
12 Serial No. 6904, valued at approximately \$20,000 from Hansen
13 Helicopters, Inc., and its employees in exchange for the
14 defendant's services of issuing and reissuing special
15 airworthiness certificates to Hansen Helicopters without
16 conducting the necessary inspections and examinations of such
17 helicopters."

18 BY MS. S. MILLER: (CONTINUING)

19 Q. Thank you. And we you could look at --

20 MS. MCCONWELL: I'm sorry, I thought you were on
21 page 5. What page are you?

22 MS. S. MILLER: This is page 4.

23 THE COURT: Okay, so that was page 4, lines --
24 for the record, line 7 through 11; is that correct, Counsel?

25 MS. S. MILLER: Yes, Your Honor. 7 through 11

1 exactly.

10:31AM

2 THE COURT: All right.

10:31AM

3 BY MS. S. MILLER: (CONTINUING)

10:31AM

4 Q. And if we could zoom back out, please. If you look
5 at the bottom of the paragraph, beginning on line 20, could
6 you please read for the jury after stating the line any
7 information here that informed your analysis, if any?

10:31AM

10:31AM

10:31AM

10:31AM

8 A. I'm sorry can you restate that.

10:31AM

9 Q. Sure, can you do the same thing with respect to the
10 remaining portion of this page, if there is any statements in
11 this page at the bottom that informed your analysis, could you
12 read it for the jury after stating the line it begins on?

10:31AM

10:31AM

10:31AM

10:31AM

13 A. Give me one moment. Starts on line 22. "In May 22,
14 2014, e-mail transmission between the defendant and Hansen
15 employee Kenneth Rufus Crowe," and its initials there,
16 "regarding the selection of a Taylorcraft BC12D aircraft worth
17 \$20,000, including..."

10:31AM

10:32AM

10:32AM

10:32AM

10:32AM

18 Q. If we could please go to page 4, I mean 5 of the
19 document. Could you continue reading, Special Agent
20 Khamvongsa, the rest of that sentence?

10:32AM

10:32AM

10:32AM

21 THE COURT: Okay. That's -- when you say
22 "document" just state for the record, is that three -- that's
23 still 302.

10:32AM

10:32AM

10:32AM

24 MS. S. MILLER: Yes, Your Honor G-304-5. Now
25 we're on page 5.

10:32AM

10:32AM

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1 THE COURT: Okay. 304. Very well. 10:32AM

2 MS. S. MILLER: Yes. 10:32AM

3 THE WITNESS: Continue. 10:32AM

4 BY MS. S. MILLER: (CONTINUING) 10:32AM

5 Q. Yes, please. 10:32AM

6 A. Defendant's statement. "I have to go with the yeller 10:32AM

7 one; two, a \$22,500 wire transfer on May 29, 2014, from Bank 10:32AM

8 of Hawaii account ending in 9134 to EJS to purchase the 10:32AM

9 aircraft and; three, a February 13th, to 2015 e-mail 10:33AM

10 transmission between the defendant and Hansen employee, Eric 10:33AM

11 J. Seacrest..." and there is initials, "including defendant's 10:33AM

12 statement, I'm looking at May or June to have a sign fest 10:33AM

13 concerning the restricted aerial survey certificates." 10:33AM

14 Q. Thank you. Now, I'd like to show you what's been 10:33AM

15 previously admitted as G-0158, please. 10:33AM

16 THE COURT: G-51 -- 10:33AM

17 MS. S. MILLER: 158, please. 10:33AM

18 THE COURT: G-158. 10:33AM

19 MS. S. MILLER: Yes. 10:33AM

20 THE COURT: Okay. And that's already been 10:33AM

21 admitted? 10:33AM

22 MS. S. MILLER: Yes, Your Honor. 10:33AM

23 THE COURT: All right. Very well. Yes? 10:33AM

24 MS. MCCONWELL: I don't have it. 10:33AM

25 THE COURT: Hold on. 10:33AM

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1 MS. MCCONWELL: If Carmen could check. 10:33AM

2 THE COURT: Oh, you don't have it down as 10:33AM

3 admitted? 10:33AM

4 MS. MCCONWELL: No, ma'am. 10:33AM

5 THE COURT: We'll verify. Hold on. 10:34AM

6 (Pause.) 10:34AM

7 THE COURT: We don't have that as admitted, 10:34AM

8 Counsel, we don't have that either. 10:34AM

9 MS. S. MILLER: Sorry, Your Honor. That may have 10:34AM

10 been a duplicate. Let me grab the one that has been admitted. 10:34AM

11 Yes, sorry about that, it's Exhibit 422. 10:34AM

12 THE COURT: Let me know, Carmen. Ms. McConwell, 10:34AM

13 you want to check your 422? 10:35AM

14 MS. MCCONWELL: Yes, I have that. 10:35AM

15 THE COURT: You have that? Okay. 10:35AM

16 THE CLERK: Yes. 10:35AM

17 THE COURT: Okay, Carmen said okay. All right, 10:35AM

18 that's good. 10:35AM

19 MS. S. MILLER: Great. 10:35AM

20 THE COURT: It's been admitted. 10:35AM

21 MS. S. MILLER: Thank you, Your Honor, and Ms. 10:35AM

22 Santos and Ms. McConwell. 10:35AM

23 BY MS. S. MILLER: (CONTINUING) 10:35AM

24 Q. So -- and could we publish to the jury, please? 10:35AM

25 THE COURT: And could you, please, make that 10:35AM

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1 larger too, Mr. Leon Guerrero, or whoever is doing it.

10:35AM

2 BY MS. S. MILLER: (CONTINUING)

10:35AM

3 Q. Special Agent Khamvongsa, did you review this
4 document in your analysis of the investigation?

10:35AM

10:35AM

5 A. I have.

10:35AM

6 Q. Could you please tell the jury what you discovered
7 with respect -- if anything, in this document with respect to
8 Mr. Crowe's role in the bribe?

10:35AM

10:35AM

9 MR. MARTIN: Your Honor, I object to the
10 characterization of the word *bribe*. She can ask him what he
11 discovered, but that's improper.

10:35AM

10:35AM

12 THE COURT: All right. Court will sustain the
13 objection.

10:36AM

10:36AM

14 MS. S. MILLER: Yes, Your Honor.

10:36AM

15 BY MS. S. MILLER: (CONTINUING)

10:36AM

16 Q. Could you please describe what you discovered and how
17 it related to your investigation within this e-mail?

10:36AM

10:36AM

18 MR. MARTIN: And I would object to him
19 interpreting the e-mail. He can read a particular portion of
20 it, Your Honor, but an interpretation is speculation.

10:36AM

10:36AM

21 THE COURT: All right. Court will sustain the
22 objection. You want to rephrase the question?

10:36AM

10:36AM

23 MS. S. MILLER: Yes, Your Honor.

10:36AM

24 BY MS. S. MILLER: (CONTINUING)

10:36AM

25 Q. Could we please go to, I believe it's the third page

10:36AM

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1 of this document.

10:36AM

2 (Discussion with clerk.)

10:36AM

3 MS. S. MILLER: I'm sorry, I think it's actually
4 the second page.

10:36AM

10:36AM

5 THE COURT: Jurors, if you have any problem
6 seeing the print, let me know. Just raise your hand, okay? I
7 mean, am I the only one that has a problem? Am I only one
8 that has a problem? Because if I am... I still count a little
9 bit, but I want to see if anybody else has a problem. Yes, if
10 you do, can you raise your hand. Like the small print. I
11 think that's like .003 or something. Anybody have -- I see
12 one person, at least. Okay. Okay. The rest of you must have
13 good eyes. Sharp eyes. All right.

10:36AM

10:36AM

10:37AM

10:37AM

10:37AM

10:37AM

10:37AM

10:37AM

10:37AM

14 BY MS. S. MILLER: (CONTINUING)

10:37AM

15 Q. So could you please read the first e-mail, starting
16 from Tim Cislo to Rufus Crowe here, please, Special Agent
17 Khamvongsa?

10:37AM

10:37AM

10:37AM

18 A. From Tim Cislo sent Thursday, May 15, 2014, 4:53 p.m.
19 to Rufus Crowe subject re Cessna 206. "Hey, Rufus, you like T
20 carts? Taylorcraft BC12D, 22,500, light sport aircraft for
21 sale."

10:37AM

10:37AM

10:37AM

10:37AM

22 Q. Thank you. And then if we go to page 1, please.

10:37AM

23 THE COURT: And this is the same exhibit?

10:38AM

24 MS. S. MILLER: Same exhibit, yes, Your Honor.
25 It goes in reverse chronological order.

10:38AM

10:38AM

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1 THE COURT: Okay.

10:38AM

2 BY MS. S. MILLER: (CONTINUING)

10:38AM

3 Q. Could you just read the bottom sentence of this part
4 we have zoomed in, please? No problem. First, could you tell
5 the jury who this e-mail is from?

10:38AM

10:38AM

10:38AM

6 A. Rufus Crowe wrote.

10:38AM

7 Q. And what was his e-mail address, please?

10:38AM

8 A. Rufus@hansenhelicopters.com.

10:38AM

9 Q. And then jut the bottom sentence could you read that
10 please?

10:38AM

10:38AM

11 A. "You need to show me the one you want and give me an
12 address where you want it shipped."

10:38AM

10:38AM

13 Q. Can you please tell the jury how that statement
14 informed your analysis with respect to Crowe's role based on
15 your investigation?

10:38AM

10:38AM

10:38AM

16 A. Crowe helped facilitate --

10:38AM

17 MR. MARTIN: Well, Your Honor, I object to him
18 saying what -- how he helped. That's not responsive and it's
19 speculation.

10:39AM

10:39AM

10:39AM

20 THE COURT: All right. The Court will sustain
21 the objection.

10:39AM

10:39AM

22 BY MS. S. MILLER: (CONTINUING)

10:39AM

23 Q. Did this particular communication inform your
24 investigation?

10:39AM

10:39AM

25 A. This supports the plea agreement, that I just read

10:39AM

1 earlier.

2 Q. How?

3 A. This is a direct communication between Crowe and
4 Cislo that further supports the selection of the Taylorcraft
5 airplane.

6 (Pause.)

7 MS. S. MILLER: Could I have just one second,
8 Your Honor? Check one thing.

9 THE COURT: Sure. Mm-hmm.

10 BY MS. S. MILLER: (CONTINUING)

11 Q. So Special Agent Khamvongsa, can you then read the
12 e-mail going up from the middle of the page -- yes, basically
13 the top half of this page?

14 THE COURT: What's the cite on this?

15 MS. S. MILLER: Sure. 422-1 and actually just
16 starting from -- could you zoom in, Mr. Leon Guerrero, from
17 which one of them Taylorcrafts did you pick out and above,
18 please?

19 BY MS. S. MILLER: (CONTINUING)

20 Q. So starting at the bottom, could you please read this
21 e-mail chain going from the bottom to the top, Special Agent
22 Khamvongsa?

23 A. From Tim Cislo, mailed to cislot002@gmail.com, sent
24 Wednesday May 21, 2014, 1:44 p.m. to Rufus Crowe, subject re
25 Cessna 206. "Which one of them Taylorcrafts did you pick

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1 out?"

2 On Wednesday, May 21, 2014, at 11:11 a.m., Rufus
3 Crowe, rufus@hansenhelicopters.com, wrote "I can't decide.
4 Let me know which one."

5 From Tim Cislo mailed to cisl0t002@gmail.com sent
6 Thursday May 22, 2014, 4:35 p.m. to Rufus Crowe subject
7 regarding Cessna 206. "Tough decision, that big old round
8 wheel on the blue one is way cool, real old-school. Bitchin'
9 even. The yellor one got an A65 with the spare A65 as part of
10 the deal. Makes more sense. I'd have to go with the yellor
11 one."

12 Q. Thank you. And if we could take to page 4 of this
13 document, please. So 422-4. If we could zoom in on the top
14 half of this page, please.

15 Could you please read for the jury the middle e-mail,
16 which is May 14th at 6:58 a.m., please?

17 A. On Wednesday May 14, 2014, at 6:58 a.m., Tim Cislo,
18 cisl0t002@gmail.com wrote "ai sus."

19 On May 13, 2014, 8:02 p.m., Rufus Crowe,
20 rufus@hansenhelicopters.com wrote "no, but you pick one out
21 and I'll have John buy it for you."

22 From Tim Cislo mailed to cisl0t002@gmail.com.

23 Q. You can actually stop there. Thank you, Special
24 Agent Khamvongsa. How did this set of e-mails on this page
25 inform your investigation?

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1 A. This e-mail further supports the plea agreement that
2 Crowe helped -- helped negotiate the sales on behalf of Jon
3 Walker or negotiate the purchase of other aircraft.

4 MR. MARTIN: Your Honor, I'm going to object to
5 him interpreting e-mails, Your Honor. They say what they say.
6 The jury is to decide. This is an ultimate conclusion.

7 MS. S. MILLER: May I respond, Your Honor?

8 MR. MARTIN: Pure speculation.

9 THE COURT: Hold on. Let me hear the objection.
10 You don't have -- repeat it.

11 MR. MARTIN: He is interpreting an e-mail, Your
12 Honor. He can read the e-mail but he cannot interpret what it
13 means or what it supports. That's for the jury to decide.
14 This is speculation.

15 THE COURT: All right. Any objections from Ms.
16 McConwell?

17 MS. MCCONWELL: Yes, ma'am. Hansen joins.

18 THE COURT: Yes, your response?

19 MS. S. MILLER: My response, Your Honor, is under
20 701, he's providing his opinion. If he can't testify as to
21 his opinion throughout his investigation, what is he going to
22 testify to? I'm asking how this --

23 THE COURT: He can testify as to his
24 investigation but...

25 MS. S. MILLER: Right. How did it inform his

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1 investigation is what I asked. How did it inform his
2 investigation.

3 THE COURT: Okay, I have not ever heard that
4 question, but okay the Court will sustain the objection.
5 There's a way to rephrase that. So the Court will sustain the
6 objection.

7 BY MS. S. MILLER: (CONTINUING)

8 Q. Special Agent Khamvongsa, was there anything in this
9 e-mail from which you drew conclusions as a criminal
10 investigator investigating wire fraud and money laundering in
11 this case?

12 MR. MARTIN: Which I object, Your Honor. His
13 conclusions are speculation.

14 MS. S. MILLER: It's his lay opinion.

15 THE COURT: He's going to give a lay opinion on
16 his investigation?

17 MS. S. MILLER: Right.

18 THE COURT: That's what you want him to do?

19 MS. S. MILLER: Yes --

20 MR. MARTIN: He testified to --

21 THE COURT: Go ahead.

22 MR. MARTIN: He can testify I did this, this and
23 this. He can't testify to an ultimate conclusion. He can
24 testify I interviewed people, I picked up documents, I did
25 this but he can't testify based on that, we have a crime. And

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1 that's what she's trying to get him to do and I object. 10:45AM

2 THE COURT: Yeah, he's -- it's not that -- yeah, 10:45AM
3 he's not qualified as an expert. You haven't qualified him as 10:45AM
4 an expert. 10:45AM

5 MS. S. MILLER: Right, but -- 10:45AM

6 THE COURT: Okay. But you're asking to give -- 10:45AM
7 he conducted an investigation so what did you do, what did you 10:45AM
8 find? 10:45AM

9 MS. S. MILLER: Right, what you found. Exactly. 10:45AM

10 THE COURT: What did you find, that's it. He 10:45AM
11 could say what he found after he investigated. 10:45AM

12 MR. MARTIN: That's not what I'm objecting to. 10:45AM

13 THE COURT: I'm sorry? That's not what you're 10:45AM
14 objecting to? 10:45AM

15 MR. MARTIN: Right. I'm objecting to him saying 10:45AM
16 based upon that, this proves X. 10:45AM

17 THE COURT: Okay. So I think just the 10:45AM
18 rephrasing, why don't you rephrase. 10:46AM

19 MS. S. MILLER: Yes, Your Honor. 10:46AM

20 THE COURT: Because he's -- he's a professional 10:46AM
21 who had an investigation, what -- based on his investigation, 10:46AM
22 what did he find? What did he find? 10:46AM

23 MS. S. MILLER: Thank you, Your Honor. 10:46AM

24 BY MS. S. MILLER: (CONTINUING) 10:46AM

25 Q. Special Agent -- 10:46AM

1 THE COURT: Simple. You guys can keep it simple. 10:46AM

2 BY MS. S. MILLER: (CONTINUING) 10:46AM

3 Q. Special Agent Khamvongsa, with respect to this e-mail 10:46AM
4 what did you find? 10:46AM

5 A. This e-mail is -- involves Tim Cislo, Rufus Crowe, 10:46AM
6 having discussion. And in it, it says "you pick one out and 10:46AM
7 I'll have John buy it for you," which further supports the 10:46AM
8 plea agreement -- 10:46AM

9 MR. MARTIN: I object to what it supports, Your 10:46AM
10 Honor. It says what it says. There is no support in there. 10:46AM
11 That's a conclusion. 10:46AM

12 THE COURT: Okay, so -- 10:46AM

13 MS. S. MILLER: We could move on, Your Honor. 10:46AM

14 THE COURT: So the Court will sustain that part 10:46AM
15 of the objection. I mean part -- in terms of the last part of 10:46AM
16 his answer. 10:46AM

17 BY MS. S. MILLER: (CONTINUING) 10:46AM

18 Q. Sure. If we could -- 10:46AM

19 THE COURT: There is probably a different way to 10:46AM
20 rephrase this. 10:46AM

21 BY MS. S. MILLER: (CONTINUING) 10:46AM

22 Q. We'll move on, Your Honor. If we could turn to 10:46AM
23 Exhibit 742, which has already been admitted, please? 10:47AM

24 THE COURT: Okay, 742. Yes? 10:47AM

25 MS. MCCONWELL: Carmen could check, I do not have 10:47AM

Direct - Khamvongsa

1 that 742 is admitted.

2 THE COURT: Okay. Let's verify. Counsel, all
3 the Counsel verify. And I'll have Carmen verify.

4 THE CLERK: One moment, Your Honor.

5 THE COURT: I'm sorry?

6 THE CLERK: One moment.

7 THE COURT: Okay, hold on one moment.

8 (Pause.)

9 THE COURT: It's not admitted, Counsel? Okay,
10 it's not admitted. Did you want to show it?

11 MS. S. MILLER: Yes, please.

12 THE COURT: Or introduce it?

13 MS. S. MILLER: Yes, please.

14 THE COURT: So don't publish this.

15 BY MS. S. MILLER: (CONTINUING)

16 Q. Can you see the document, Special Agent Khamvongsa?

17 A. Yes.

18 Q. Before we zoom in on it actually, can we go to the
19 bottom.

20 Do you know how it was obtained, Special Agent
21 Khamvongsa?

22 A. Yes, this was obtained from the FBI search warrant.
23 This e-mail comes from the electronic media seized from the
24 FBI search warrant in October of 2016.

25 MS. S. MILLER: Thank you. At this time, Your

Direct - Khamvongsa

1 Honor, I move Exhibit 742 into evidence. 10:48AM

2 MR. MARTIN: May I voir dire for an objection? 10:48AM

3 THE COURT: Yes, you may, Mr. Martin. Go ahead. 10:48AM

4 10:48AM

5 **VOIR DIRE** 10:49AM

6 BY MR. MARTIN: (CONTINUING) 10:49AM

7 Q. Agent Khamvongsa? 10:49AM

8 A. Good morning, Mr. Martin. 10:49AM

9 Q. Did I say that right, sir? 10:49AM

10 A. Khamvongsa. 10:49AM

11 Q. Khamvongsa. Thank you? 10:49AM

12 A. Thank you, sir. 10:49AM

13 Q. Good morning to you. 10:49AM

14 A. Good morning. 10:49AM

15 Q. Is Mr. Walker a recipient or a carbon on this e-mail, 10:49AM
16 sir? 10:49AM

17 A. He's not on this e-mail. 10:49AM

18 MR. MARTIN: I object on the basis of hearsay, 10:49AM
19 Your Honor. 10:49AM

20 THE COURT: Okay, and Ms. McConwell, do you have 10:49AM
21 any objections? 10:49AM

22 MS. MCCONWELL: Hansen Helicopters joins, Your 10:49AM
23 Honor. 10:49AM

24 THE COURT: Okay. And the citation? 10:49AM

25 MS. S. MILLER: 801(d)(2)(E) as in echo. 10:49AM

Direct - Khamvongsa

1 THE COURT: Okay. The Court will overrule the 10:49AM
2 objection and admit the document. And yes, you may publish, 10:49AM
3 if you'd like. 10:49AM

4 (Exhibit 742 admitted.) 10:48AM

5 MS. S. MILLER: Thank you, Your Honor. I would 10:49AM
6 like to publish it. 10:49AM

7 BY MS. S. MILLER: (CONTINUING) 10:49AM

8 Q. So if we could zoom in on the top, please, Mr. Leon 10:49AM
9 Guerrero. Thank you. 10:49AM

10 Special Agent Khamvongsa, can you please read this 10:49AM
11 e-mail to jury to the e-mail, starting with the very top? 10:49AM

12 A. "Tim's plane, from Rufus Crowe, 10:49AM
13 rufus@hansenhelicopters.com. To 10:50AM
14 marvinreed@hansenhelicopters.com. Date, Thursday, 26 June, 10:50AM
15 2014, at 17:55:34, 0400. Morning Marvious, could you please 10:50AM
16 forward me the document that Tim's going to need to get his 10:50AM
17 plane in Hawaii? Do you know when it's going to arrive? 10:50AM
18 You're da bomb. Rufus." 10:50AM

19 Q. Thank you, Special Agent Khamvongsa. Can you please 10:50AM
20 tell jury what, if anything, you found based on this e-mail? 10:50AM

21 A. This e-mail is from Rufus to Marvin Reed and it's 10:50AM
22 discussing the need to forward Rufus -- 10:50AM

23 MR. MARTIN: Your Honor, I object to what -- he 10:50AM
24 can read what it says. He cannot interpret it. 10:50AM

25 THE COURT: Sustained. 10:50AM

Direct - Khamvongsa

1 THE WITNESS: It says, "Could you please forward
2 the document --"

3 MS. S. MILLER: Sustained. Sustained.

4 THE COURT: You could read it.

5 MS. S. MILLER: He just did.

6 MS. MCCONWELL: He already has.

7 THE COURT: Did you want him to read it again?
8 Okay. Asked and answered. Go ahead next question. All
9 right. Next question.

10 BY MS. S. MILLER: (CONTINUING)

11 Q. Sure. I'd now like to direct your attention to
12 Exhibit 551, which has been admitted. And if we could zoom in
13 on the actual text of the letter, please.

14 Special Agent Khamvongsa, can you please read the
15 first full paragraph for the jury of this letter?

16 A. "Dear John --"

17 Q. Yes, thank you. Sorry.

18 A. "Dear John, it is my understanding of our agreement
19 as follows: You are purchasing all of Trafficopters, Inc.,
20 369 helicopter assets and parts, as well as two trucks and two
21 trailers as defined in our invoice. This includes anything
22 used for or on the Hughes 369500 helicopter, all for
23 \$135,000."

24 Q. Special Agent Khamvongsa, who is this letter from?

25 A. Randy Rogers of Trafficopters.

Direct - Khamvongsa

1 Q. Thank you. Is he a defendant in this case? 10:52AM

2 A. Yes. 10:52AM

3 Q. Okay. And can you please read for the jury the last
4 paragraph of this letter? 10:52AM

5 A. "I feel it will be better to do everything through 10:52AM
6 Vanguard Aviation since it has the business license here in 10:52AM
7 Valdosta and Vanguard has the lease with the airport. No 10:52AM
8 sense stirring any pots. You agree? That way when you do 10:52AM
9 take all the assets of Trafficopters, Inc., I can close it 10:52AM
10 quietly without any problems." 10:52AM

11 Q. Thank you. And if we zoom out of the document. Can 10:52AM
12 you please read who this letter is addressed to in the 10:52AM
13 address? 10:52AM

14 A. Mr. Jon Walker, Hansen Helicopters via e-mail 10:53AM
15 jwalker@guam.net. 10:53AM

16 Q. Thank you. I'd now like to show you what's been 10:53AM
17 previously admitted as G-761. 10:53AM

18 THE COURT: Yes? 10:53AM

19 MS. S. MILLER: Have you seen this document? 10:53AM

20 THE COURT: Hold on. Hold on. 10:53AM

21 MS. MCCONWELL: This is only admitted as to 10:53AM
22 Hansen Helicopters, Your Honor, not to Mr. Walker and I would 10:53AM
23 object to relevance for any line along -- with this exhibit 10:53AM
24 because -- 10:53AM

25 THE COURT: With this witness? 10:53AM

Direct - Khamvongsa

1 MS. MCCONWELL: With this witness because this 10:53AM
2 witness is testifying about counts that Hansen Helicopters is 10:53AM
3 not charged in. 10:53AM

4 THE COURT: Okay, so -- so I see what you're 10:53AM
5 saying, so this was -- this exhibit was only admitted against 10:53AM
6 Hansen and not against Mr. Walker. 10:54AM

7 MS. MCCONWELL: That's correct. 10:54AM

8 THE COURT: So it's irrelevant to both? 10:54AM

9 MS. MCCONWELL: That's correct. 10:54AM

10 MS. S. MILLER: My response, Your Honor. 10:54AM

11 THE COURT: Yes. 10:54AM

12 MS. S. MILLER: He was involved in the entirety 10:54AM
13 of this investigation. He has knowledge and certainly some of 10:54AM
14 the manner and means that he -- that are included in other 10:54AM
15 counts relate to his investigation. So he also testified that 10:54AM
16 he reviewed all of the evidence, including filings. 10:54AM

17 THE COURT: But that's not the object -- you 10:54AM
18 heard the objection. The objection is irrelevant. It's just 10:54AM
19 not relevant to Hansen Helicopters. 10:54AM

20 MS. S. MILLER: It's also relevant because it 10:54AM
21 describes the relationship and to the money laundering wire 10:54AM
22 fraud counts. The relationship is relevant to those -- 10:54AM

23 THE COURT: I'm sorry. Wait. Wait. Wait. Hold 10:54AM
24 back. It's not relevant to the Hansen -- let's think about 10:54AM
25 this. It's not relevant to the Hansen Helicopters. 10:54AM

Direct - Khamvongsa

1 MR. MARTIN: Could we take the document down, 10:54AM
2 Your Honor. 10:54AM

3 THE COURT: I don't think it's published. Is it? 10:54AM

4 MS. S. MILLER: It is, but it's been admitted 10:54AM
5 already. 10:54AM

6 MR. MARTIN: But it's not admitted against Jon 10:54AM
7 Walker. 10:55AM

8 THE COURT: It's not admitted against Jon Walker 10:55AM
9 and right now, they're saying it should not be used against 10:55AM
10 Hansen Helicopters. So the objection is, it's not relevant to 10:55AM
11 anything to do with Hansen Helicopters. If that's true, then 10:55AM
12 Mr. Khamvongsa has no business discussing this exhibit. 10:55AM

13 MS. S. MILLER: So one of the counts that he has 10:55AM
14 testified to is conspiracy. So -- 10:55AM

15 THE COURT: So just tell me the count number, you 10:55AM
16 don't have to tell me, so Count 1. 10:55AM

17 MS. S. MILLER: 99. Count 99 is conspiracy. 10:55AM

18 THE COURT: Just let me look at Count 99. 10:55AM

19 MS. S. MILLER: And it's relevant to that, Your 10:55AM
20 Honor. 10:55AM

21 THE COURT: All right, let me look at 99. And 10:55AM
22 everybody else look at 99 over there on that side. 99. 10:55AM

23 Page 33. Okay, let me look at this. Okay. So again, so 99 10:55AM
24 does not include, does not include Hansen Helicopters. Number 10:55AM
25 one. And this document is not -- was not admitted against 10:56AM

1 Walker. So the Court will sustain the objection. Unless you
2 have another.

3 MS. S. MILLER: I would ask Your Honor to
4 reconsider that ruling because it does show evidence of the
5 conspiracy described in Count 99.

6 THE COURT: But Counsel, but Counsel, no. The
7 Court will sustain the objection. Based on -- I don't know if
8 you understand my ruling, but based on the fact that that
9 exhibit is only to be used against Hansen Helicopters, but not
10 against Mr. Walker.

11 MS. S. MILLER: Right. And that's what I'm
12 asking the Court to reconsider is that should be admitted also
13 --

14 THE COURT: Oh, I see, against Walker now?

15 MS. S. MILLER: Right, because -- because of 99.

16 THE COURT: Hold on a second. So Mr. Martin?
17 Okay. So now, she's independently --

18 MR. MARTIN: Well, I need time to review the
19 document again, Your Honor. I'll have go back to my notes as
20 to why we kept it out. But I knew it was out so I objected to
21 it. So...

22 THE COURT: You need ten minutes?

23 MR. MARTIN: That'd be great.

24 THE COURT: Ten minutes, ladies and gentlemen.
25 Let's go, get up and exercise again. Keep an open mind. Do

1 not form or express any opinion on this case. And you know 10:57AM
2 this is important, I want you to know, it's really because 10:57AM
3 these are legal issues, I'm required under the law to just 10:57AM
4 speak to the lawyers and it has to stay out of your presence 10:57AM
5 and because you guys are fact-finders. Not legal finders. 10:57AM
6 Okay. Thank you. Enjoy your break. 10:57AM

7 (Jury out at 10:57 a.m.) 10:57AM

8 THE COURT: Maybe we could have you step out. 10:57AM

9 THE WITNESS: Yes, ma'am. 10:57AM

10 THE COURT: Thank you. 10:57AM

11 MS. M. MILLER: Are we taking a brief recess, 10:58AM
12 Your Honor? Are the attorneys, too, Your Honor? 10:58AM

13 THE COURT: I'll let you, hold on a minute after 10:58AM
14 Mr. Khamvongsa goes out. The prosecutor is asking that this 10:58AM
15 exhibit, that exhibit was -- 761, right? 761. 10:58AM

16 MS. S. MILLER: Yes, Your Honor. 10:58AM

17 THE COURT: That has already been admitted as 10:58AM
18 against Hansen. But now she's going to try to -- I assume 10:58AM
19 you're going to try to set -- does he -- you're going to be 10:58AM
20 able to lay a foundation with this witness? 10:58AM

21 MS. S. MILLER: Right. He's reviewed a number of 10:58AM
22 declarations that are under -- I think he testified earlier 10:58AM
23 that he reviewed a lot of third-party information where 10:58AM
24 they're swearing under oath. 10:58AM

25 THE COURT: Can you put 761 back up, please. 10:58AM

Direct - Khamvongsa

1 MS. S. MILLER: Sure. 10:58AM

2 THE COURT: It's not very long. 10:58AM

3 Oh, declaration of Crowe, let me see. Okay, 10:58AM

4 let's go to the next page. There is four pages. Okay, go 10:59AM

5 ahead. So basically he's discussing the operations of Hansen 10:59AM

6 Helicopters; is that right? 10:59AM

7 MS. S. MILLER: There are some of that, Your 10:59AM

8 Honor. It also in paragraph 14 specifically mentions the 10:59AM

9 relationship between the co-conspirators and Mr. Walker, which 10:59AM

10 is relevant to conspiracy. 10:59AM

11 THE COURT: So are you saying that on 10:59AM

12 paragraph 14, is what you're really trying to get? 10:59AM

13 MS. S. MILLER: Well there is a number of 11:00AM

14 different paragraphs, but that's probably the most important 11:00AM

15 one. 11:00AM

16 THE COURT: Well, which ones are you trying to 11:00AM

17 get? Let's focus on that. 11:00AM

18 MS. S. MILLER: Okay, so paragraph -- 11:00AM

19 THE COURT: Because maybe some of it is 11:00AM

20 irrelevant to Walker and some of it is relevant to Walker. 11:00AM

21 Mr. Walker. Go ahead. So which ones are you looking at? 11:00AM

22 MS. S. MILLER: So I would -- these are all 11:00AM

23 relevant to the agreement and sort of relationship between the 11:00AM

24 co-conspirators, including Walker. So paragraph 2. 11:00AM

25 THE COURT: Okay, so let me go up to paragraph 2, 11:00AM

1	please. Two. Okay, one more page. Okay. Next one.	11:00AM
2	MS. S. MILLER: Paragraph 5.	11:00AM
3	THE COURT: All right. Let's go to five, next	11:00AM
4	page. Okay. Next one?	11:00AM
5	MS. S. MILLER: 6, right there.	11:00AM
6	THE COURT: Okay. Next?	11:00AM
7	MS. S. MILLER: 7.	11:00AM
8	THE COURT: Okay.	11:00AM
9	MS. S. MILLER: 9.	11:00AM
10	THE COURT: Okay.	11:01AM
11	MS. S. MILLER: Which, I think, continues on to	11:01AM
12	the next page, please.	11:01AM
13	THE COURT: Okay.	11:01AM
14	MS. S. MILLER: 10.	11:01AM
15	THE COURT: Okay.	11:01AM
16	MS. S. MILLER: 11.	11:01AM
17	THE COURT: Okay.	11:01AM
18	MS. S. MILLER: 12.	11:01AM
19	THE COURT: Let me look at 12, hold on. Okay.	11:01AM
20	MS. S. MILLER: And then 14.	11:01AM
21	THE COURT: Not 14. I mean not 13, but 14?	11:01AM
22	MS. S. MILLER: Right. Well, the end of 12 at	11:01AM
23	the top and then 14, Your Honor.	11:01AM
24	THE COURT: Okay. 14.	11:01AM
25	(Pause.)	11:01AM

Direct - Khamvongsa

1 THE COURT: So 10, 11 -- 12 and 14? 11:02AM

2 MS. S. MILLER: 2, 5, 6, 7, 9, 10, 11, 12, 14. 11:02AM

3 THE COURT: Right. Okay. 11:02AM

4 MS. S. MILLER: I can do that again, if you'd 11:02AM

5 like. 11:02AM

6 THE COURT: No, I got it. 11:02AM

7 MS. S. MILLER: Okay. 11:02AM

8 THE COURT: All right. 9 of 14 paragraphs. All 11:02AM

9 right. And you're saying that -- you're trying to offer -- 11:02AM

10 well, it's pretty much most of it. As evidence of the 11:02AM

11 conspiracy that in Count 99? 11:02AM

12 MS. S. MILLER: Right. It explains the 11:02AM

13 relationship among the co-conspirators that are alleged as 11:02AM

14 co-conspirators in the conspiracy in Count 99, including 11:02AM

15 Mr. Walker. 11:02AM

16 THE COURT: Okay. 11:02AM

17 (Pause.) 11:03AM

18 THE COURT: Ready? Go ahead. 11:03AM

19 MR. MARTIN: Yes, Your Honor. 11:03AM

20 THE COURT: Yes? 11:03AM

21 MR. MARTIN: First of all, so that the record is 11:03AM

22 complete. 11:03AM

23 THE COURT: Okay, get on your mic. Yup. 11:03AM

24 MR. MARTIN: First of all, so the record is 11:03AM

25 complete, Your Honor, this is a legal pleading in this case 11:03AM

Direct - Khamvongsa

1 filed July 5, 2018, by Mr. Crowe.

11:03AM

2 THE COURT: Mr. Crowe's lawyer, lawyers filed on
3 his behalf, right?

11:03AM

11:03AM

4 MR. MARTIN: Yeah.

11:03AM

5 THE COURT: A declaration.

11:03AM

6 MR. MARTIN: Yeah. Declaration by Mr. Lujan on
7 behalf of Mr. Crowe requesting that he be allowed, it's in
8 support of his motion to modify conditions of release.
9 Mr. Walker has nothing to do with it. He didn't adopt it. He
10 hasn't seen it. He wasn't a party to it. And it's -- it's
11 not co-conspirator hearsay because it's not -- it doesn't
12 further nor is it a statement in furtherance of the
13 conspiracy. And it's not in the -- it's not in any capacity
14 for Mr. Walker because he doesn't -- he's not even a party to
15 it, Your Honor. This is a legal document requesting the Court
16 to modify his conditions of bond and it has to be filed or I
17 assume it has to be filed. I didn't represent Mr. Crowe and
18 it could be admissible absolutely against Mr. Crowe but not
19 against Mr. Walker.

11:03AM

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20 THE COURT: Yeah, I think he makes a good point.
21 I see what you're trying to do, but if it was a declaration in
22 support of a bail hearing to be released out of Guam, it's not
23 like -- like -- it's not as if Mr. Crowe was making a
24 statement to an investigator like a 302. It's not as if
25 Mr. Crowe was, you know, caught on tape making his statements

11:04AM

11:04AM

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11:05AM

11:05AM

Direct - Khamvongsa

1 in furtherance of a conspiracy. So I'm inclined to sustain
2 the objection.

3 MS. S. MILLER: May I respond, Your Honor?

4 THE COURT: Yeah. Go ahead.

5 MS. S. MILLER: So while I agree it's not
6 Mr. Walker's statement.

7 THE COURT: That's not -- yeah, that's not the
8 point, but go ahead.

9 MS. S. MILLER: Well, Mr. Kapp signed it. He
10 swore under oath that these facts were true. I'm sorry Crowe.
11 Did I -- Crowe. So it is 801(d)(2)(E). It's a co-conspirator
12 statement. And it's in furtherance of the conspiracy as a
13 whole because this conspiracy is ongoing as Your Honor knows
14 and is allowed --

15 THE COURT: I don't know that. Don't say I know
16 that that's what you want to prove.

17 MS. S. MILLER: Right. So it is a co-conspirator
18 statement because plenty of the facts in here show they're
19 still operating in this manner as of today. Because the
20 conspiracy continues till today.

21 THE COURT: And so you are offering it under 801?
22 What? (d)(2)? What?

23 MS. S. MILLER: (d)(2)(E) as in echo.

24 THE COURT: Got it. "(E), was made by the
25 party's conspirator during and in furtherance of the

1 conspiracy. The statement must be considered, but does not
2 establish -- but does not by itself establish a declarant's
3 authority under... the existence or scope of a relationship
4 under the existence or the conspiracy or participation" and
5 it's under (E)." All right. Mr. Martin.

6 MR. MARTIN: Your Honor, this is a statement for
7 modification of conditions of bond. It is not a statement in
8 furtherance of the conspiracy. It is a statement by Mr. Crowe
9 saying Mr. Lujan wants to modify my conditions of bond.
10 That's the purpose of it. That's what it's for. And for the
11 government to be able to use Mr. Crowe's legal pleading to let
12 him modify his conditions of release against Mr. Walker is
13 very inappropriate. Let's just put it that way, I'll say.

14 MS. S. MILLER: And may I respond again, Your
15 Honor?

16 THE COURT: Hold on. Not yet. Okay. For the
17 record, Cann deposition has been docketed for all those that
18 need to go and --

19 MS. M. MILLER: Thank you, Your Honor.

20 THE COURT: -- work. My clerk's office has
21 docketed it. Are you offering this for the truth of the
22 matter asserted?

23 MS. S. MILLER: I'm offering it as a
24 co-conspirator statement so it's not hearsay at all.

25 THE COURT: No, I know. But -- okay, it's

1 non-hearsay but the question is, was this made in the 11:07AM
2 furtherance of the conspiracy? Hold on. 11:07AM

3 So generally, I'm just trying to think this 11:07AM
4 through. I'm not saying you're right but I'm not saying 11:07AM
5 you're wrong, either. I don't know. I'm just thinking this 11:07AM
6 through. Because I have not had somebody use a bail 11:07AM
7 declaration for a co-conspirator statement. Generally, you 11:07AM
8 guys have other things for co-conspirator statements, i.e., a 11:07AM
9 302 or something else, a tape or something, but not to the 11:07AM
10 point of going into the magistrate judge and saying, release 11:07AM
11 me, release me, let me go for whatever purpose. 11:08AM

12 MR. MARTIN: And we're not party to it at all, 11:08AM
13 Judge. 11:08AM

14 THE COURT: No, I don't think you have to be a 11:08AM
15 party to it but it's more like, was this made in furtherance 11:08AM
16 of a conspiracy? And -- 11:08AM

17 MS. S. MILLER: My response, Your Honor, is that 11:08AM
18 the entire reason Mr. Kapp and Mr. Crowe were seeking 11:08AM
19 modifications of bail is so that they could operate the 11:08AM
20 business and continue their conspiracy, including, for 11:08AM
21 example, flying to the Philippines where they moved their 11:08AM
22 operation. 11:08AM

23 THE COURT: All right. So you can say that's 11:08AM
24 your theory all you want. The thing is, did the judge 11:08AM
25 believe you downstairs, because if the judge did, why did he 11:08AM

Direct - Khamvongsa

1 release him? 11:08AM

2 MS. S. MILLER: I'm not sure why that's relevant. 11:08AM

3 THE COURT: Well, it is relevant because if 11:08AM
4 you're trying to say that your theory is, is that they did 11:08AM
5 this, did you guys argue that before the judge downstairs. 11:08AM

6 MS. S. MILLER: We opposed every time they tried 11:08AM
7 to get their bail modified, yes. 11:08AM

8 THE COURT: All right. All right. So you did 11:08AM
9 that. You argued that. So that's good for you. 11:08AM

10 MS. M. MILLER: And Judge Manibusan did deny Mr. 11:08AM
11 Kapp going to the Philippines, then he retired. Then Judge 11:09AM
12 Bordallo heard it. And Judge Bordallo, Your Honor, just as a 11:09AM
13 reminder, has recused himself from any decisions in this case. 11:09AM
14 We don't know why. We never got any of the reasons why he 11:09AM
15 recused himself. So I don't know that that means anything. 11:09AM
16 This is clearly an admission by Mr. Crowe. 11:09AM

17 MR. MARTIN: Well, you just said Mr. Kapp. This 11:09AM
18 is Mr. Crowe. 11:09AM

19 MS. M. MILLER: No, my point is, Mr. Kapp 11:09AM
20 initially was the one trying to go to the Philippines all the 11:09AM
21 time. And then Mr. Crowe wanted to go to the Philippines as 11:09AM
22 well. And, Your Honor, until we got the records from the 11:09AM
23 Philippines , we didn't even know all the details we know now. 11:09AM

24 MR. MARTIN: That's not relevant. 11:09AM

25 MS. M. MILLER: Of course it's relevant. 11:09AM

Direct - Khamvongsa

1 THE COURT: No, no, wait, wait, okay. No, no, 11:09AM
2 not necessarily. Okay. I'm talking about -- okay, you guys 11:09AM
3 have a theory to the case. The thing is, we have a statement 11:09AM
4 by Crowe, forget Kapp for right now, we're talking about 11:09AM
5 Crowe; correct? 11:10AM

6 MS. M. MILLER: Yes. 11:10AM

7 THE COURT: I don't care about Kapp right now. 11:10AM
8 This is Crowe's statement for purposes of a bail reduction. 11:10AM
9 You saw Judge -- 11:10AM

10 MS. M. MILLER: No, no, no, no, this is his 11:10AM
11 statement for purposes of travel, I believe. I don't think -- 11:10AM

12 THE COURT: Okay, not bail reduction, but bail 11:10AM
13 modification. It's bail modification. 11:10AM

14 MS. M. MILLER: To allow him to travel to the 11:10AM
15 Philippines, yes. 11:10AM

16 THE COURT: Bail modification. Okay, so he was 11:10AM
17 his -- okay, his pretrial release status, he wants to go to 11:10AM
18 the Philippines. Did you guys make this argument before the 11:10AM
19 judge. Which judge? 11:10AM

20 MR. MARTIN: I wasn't a party to it so I don't 11:10AM
21 know, Your Honor. 11:10AM

22 MS. M. MILLER: And we did not make this argument 11:10AM
23 that we're making in front of you in front of Judge Bordallo 11:10AM
24 because we did not have the records from the Philippines that 11:10AM
25 we do now. 11:10AM

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1 THE COURT: Okay, so you did not know, you did
2 not know that there was -- it was part of your theory that
3 there was an ongoing conspiracy?

4 MS. M. MILLER: Correct. We didn't get the
5 records.

6 THE COURT: That's all I want to know.

7 MS. M. MILLER: Yes.

8 THE COURT: So that's my question. But she just
9 said, yeah, you did make that argument.

10 MS. M. MILLER: No, we made an alternative
11 argument to Judge Manibusan when he was still the magistrate
12 judge on the case when Mr. Kapp in 2017 wanted to go to the
13 Philippines.

14 THE COURT: So my only question, though, but my
15 question was, with regard to Crowe, did you make that --

16 MS. M. MILLER: No, we didn't.

17 THE COURT: -- argument.

18 MS. M. MILLER: We did not get those records from
19 the Philippines until 2022.

20 THE COURT: Okay, so that's all I wanted to know.
21 I got it. But had you not -- had you not made it or make it
22 look like okay what -- and if you made it, and the judge
23 decided against it, that's another issue I have to resolve.
24 But that's not the case.

25 MR. MARTIN: I can't tell what was argued there,

1 Your Honor, because I was not a party to this. 11:11AM

2 THE COURT: All right. 11:11AM

3 MR. MARTIN: Mr. -- I do know that he was granted 11:11AM
4 permission. 11:11AM

5 THE COURT: Okay, so he's made a statement. So 11:11AM
6 this is Crowe making a statement. He's saying okay, this is 11:11AM
7 where I work, this is what I do, this is my operation, I mean 11:11AM
8 this is how it's operated. So is this a statement made in 11:11AM
9 furtherance of the conspiracy? That's really the question. 11:12AM

10 MR. MARTIN: My answer is, it's a statement made 11:12AM
11 so he could travel to whatever the motion for modification. 11:12AM
12 We just have the affidavit. I don't even know what the motion 11:12AM
13 says, Your Honor. Like I said, I wasn't a party to it. 11:12AM
14 Mr. Lujan represents Mr. Crowe. 11:12AM

15 THE COURT: Right. Okay. 11:12AM

16 MR. MARTIN: And -- 11:12AM

17 THE COURT: Doesn't matter whether you're a party 11:12AM
18 to it necessarily for purposes of -- 11:12AM

19 MR. MARTIN: I agree. I agree. 11:12AM

20 THE COURT: -- of trying to figure out what kind 11:12AM
21 of statement this is, right? So I'm just trying to figure out 11:12AM
22 because I never had somebody use a bail or a declaration to 11:12AM
23 try to get off Guam and modify conditions to say that's made 11:12AM
24 in furtherance of a conspiratorial statement. 11:12AM

25 MR. MARTIN: The primary purpose of the 11:12AM

1 affidavit, we know, is for modification of conditions of bond. 11:12AM

2 THE COURT: We do know that. I think the 11:12AM
3 prosecutor would agree with that. 11:12AM

4 MS. S. MILLER: Yes. 11:12AM

5 THE COURT: That it is. The question is, was 11:12AM
6 this statement -- is the statement offered against an opposing 11:12AM
7 party and was it made by the party's co-conspirator during and 11:12AM
8 in furtherance of the conspiracy? During and in further of 11:13AM
9 the conspiracy? That's really the question. 11:13AM

10 MR. MARTIN: Well, and I can't say, Your Honor, 11:13AM
11 and I would say that they can't say this is in furtherance of 11:13AM
12 the conspiracy. I mean, they've alleged that the conspiracy 11:13AM
13 started back in 1992. And there is no other way for, let me 11:13AM
14 say this, Your Honor, there is no absolutely no other way for 11:13AM
15 Mr. Crowe to modify request a modification of conditions of 11:13AM
16 bond, other than to file a motion and an affidavit in support. 11:13AM

17 THE COURT: Is his going to the Philippines part 11:13AM
18 of the conspiracy? 11:13AM

19 MR. MARTIN: Well, I don't think that's alleged 11:13AM
20 in here, Your Honor. 11:13AM

21 MS. M. MILLER: Yes. 11:13AM

22 THE COURT: Is his -- wait, is his going to the 11:13AM
23 Philippines part of the conspiracy? 11:13AM

24 MR. MARTIN: That's not alleged. 11:13AM

25 THE COURT: As contained in Count 99? 11:13AM

1 MR. MARTIN: No. 11:13AM

2 THE COURT: Hold on. Let me look at it. 11:13AM

3 Everybody just let me look because I just need to read this 11:13AM

4 really quick. Present a scheme? Okay, that's the question. 11:13AM

5 And the answer is, yes, Ms. Samantha Miller, what's the 11:14AM

6 answer? What is -- 11:14AM

7 MS. S. MILLER: Sorry. I'm just pulling up 11:14AM

8 manner and means, Your Honor. Just one second please. 11:14AM

9 THE COURT: Manner and means. Are you looking at 11:14AM

10 what page? 11:14AM

11 MS. S. MILLER: Right, I'm looking at pages 33, 11:14AM

12 34 -- 11:14AM

13 THE COURT: Well, that's not -- okay. 11:14AM

14 MS. S. MILLER: It's the manner and means of the 11:14AM

15 conspiracy to commit wire fraud. 11:14AM

16 THE COURT: That's before Count 99, but okay, 11:14AM

17 let's see, is it count -- 11:14AM

18 MS. S. MILLER: No, it's the manner and means of 11:14AM

19 Count 99. Count 99 begins on page 33, line 18. 11:14AM

20 THE COURT: Yeah, you said it was before that, 11:14AM

21 though. 11:14AM

22 MS. S. MILLER: I'm sorry if I misspoke, page 33 11:14AM

23 onward is the manner and means. 11:14AM

24 THE COURT: Yeah, you misspoke there. 11:14AM

25 MS. S. MILLER: Sorry about that, Your Honor. 11:14AM

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1 THE COURT: All right. So manner and means are 11:14AM
2 on page 34, line 18, 19. Okay. 11:15AM

3 MS. S. MILLER: Let me know when you want me to 11:15AM
4 respond, Your Honor. 11:15AM

5 THE COURT: Hold on a second. 11:15AM

6 MS. S. MILLER: One second. 11:15AM

7 THE COURT: Okay. Tell me. Go ahead. 11:16AM

8 MS. S. MILLER: So Your Honor, on pages 34 and 11:16AM
9 35, you see the list of aircraft and the list of tuna boats. 11:16AM

10 THE COURT: Yup. 11:16AM

11 MS. S. MILLER: So we have evidence and presented 11:16AM
12 evidence already that these same helicopters now have been 11:16AM
13 moved from the United States to the Philippines. They're 11:16AM
14 still being leased to the same tuna boat companies. So the 11:16AM
15 conspiracy continues and it's related to these particular tuna 11:16AM
16 boat and particular aircraft. 11:16AM

17 THE COURT: Okay, so let's look at his date -- 11:16AM
18 what is the date of his declaration? 11:16AM

19 MS. S. MILLER: It was early on in the case, Your 11:16AM
20 Honor. That's why we didn't know about the moving -- 2018. 11:16AM

21 THE COURT: No, just answer the question. 11:16AM

22 MS. S. MILLER: 2018. 11:16AM

23 THE COURT: Okay. What date? 11:16AM

24 MR. MARTIN: July 5, 2018. 11:16AM

25 THE COURT: July 5, 2018, okay. So you're saying 11:16AM

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1 that -- so -- but you're not using the July 2018, you're
2 saying it's more recent? Right?

3 MS. S. MILLER: Well, we're saying it establishes
4 the relationships between the defendants at the time of the
5 declaration was filed. And that the fact that he was trying
6 to go to the Philippines is evidence of how the conspiracy
7 operated. By moving these same aircraft into leases with
8 Philippine companies is part of the conspiracy and how they
9 committed wire fraud. They moved their bank accounts to the
10 Philippines.

11 THE COURT: Okay. Did he go to the Philippines
12 to establish leases? At that time?

13 MS. S. MILLER: We believe so, Your Honor.

14 THE COURT: Not you believe so. Why the --

15 MS. S. MILLER: I think he's on bills of sale
16 that were filed with the Philippines. I think he was on the
17 board of directors for Pacific Spotters, the director or --

18 MS. M. MILLER: We have the contracts, we have
19 the opening of the bank account, we have everything.

20 THE COURT: Okay, let's -- FYI the jurors' food
21 is already here. I'm just going to tell them to eat. So
22 they're waiting for me, but it arrived ten minutes ago. I'm
23 just going to tell them to eat.

24 MS. M. MILLER: Yes, Your Honor.

25 THE COURT: Tell them to eat. Okay. Let's

1 return back. But you're saying this is in furtherance of the 11:18AM
2 Count 99 conspiracy? 11:18AM

3 MS. S. MILLER: Right, because he took the same 11:18AM
4 -- or all of the co-conspirators took the same aircraft 11:18AM
5 identified in Count 99 with the same tuna boat companies 11:18AM
6 identified in Count 99 and moved the entire operation to the 11:18AM
7 Philippines. And Mr. Crowe was traveling at the very time 11:18AM
8 that they established the new operations in the Philippines. 11:18AM
9 We've presented evidence about starting, I think there was 11:18AM
10 articles of incorporation with Pacific Spotters, we have the 11:18AM
11 bank records established that they were opening accounts at 11:18AM
12 that time. 11:18AM

13 THE COURT: All I care -- you're arguing that 11:18AM
14 this particular exhibit is in furtherance of Count 99? That's 11:18AM
15 what you just said. 11:19AM

16 MS. S. MILLER: Yes. Yes. 11:19AM

17 THE COURT: All right. 11:19AM

18 MS. S. MILLER: And, of course relatedly, the 11:19AM
19 money laundering, too. 11:19AM

20 THE COURT: Go ahead. 11:19AM

21 MR. MARTIN: Well, first of all, Your Honor, 11:19AM
22 Count -- 11:19AM

23 THE COURT: 99. 11:19AM

24 MR. MARTIN: 99 alleges conspiracy to defraud and 11:19AM
25 cheat others. It does not allege anything about the 11:19AM

1 Philippines or transferring anything to the Philippines. And 11:19AM
2 if you go to the money laundering counts, those are all 11:19AM
3 alleged to have occurred in 2016. And this declaration is 11:19AM
4 made in 2018, two years after the fact, which can't be in 11:19AM
5 furtherance of money laundering because it happened two years 11:19AM
6 earlier, if it happened at all. 11:19AM

7 So I submit that there is no object or manner and 11:19AM
8 means alleging anything about the Philippines or setting up 11:19AM
9 any type of business in the Philippines in Count 99 and this 11:20AM
10 is improper. 11:20AM

11 THE COURT: Okay, hold on. I'm just looking at 11:20AM
12 this carefully. Have you guys presented evidence that he 11:20AM
13 established -- evidence that he went to the Philippines to 11:20AM
14 establish leases and have you presented that already? Crowe? 11:20AM

15 MS. S. MILLER: Yes, Your Honor, we -- 11:20AM

16 THE COURT: During this timeframe? 11:20AM

17 MS. S. MILLER: Yes, Your Honor. We admitted a 11:20AM
18 number of exhibits with the representative from the 11:20AM
19 Philippines Civil Aviation Authority, if you recall. And a 11:20AM
20 lot of those documents involved the starting of Pacific 11:20AM
21 Spotters and who was on those articles of incorporation for 11:20AM
22 that company. And it coincide -- 11:21AM

23 THE COURT: Just give me the exhibit number. 11:21AM

24 MS. S. MILLER: 3003 is one of those exhibits. 11:21AM

25 THE COURT: That is all I care about. Don't make 11:21AM

1 your arguments. I don't need your argument. I just need the 11:21AM
2 evidence. I'll remember the evidence. Go ahead. 11:21AM

3 MS. MCCONWELL: Certain pages. 11:21AM

4 THE COURT: 3003? 11:21AM

5 MS. S. MILLER: Yes, Your Honor. 11:21AM

6 MS. MCCONWELL: Only certain pages of 3003 were 11:21AM
7 admitted. Not the entire document, Your Honor. 11:21AM

8 THE COURT: So what page on 3003? 11:21AM

9 MS. S. MILLER: Page 7, for example, Your Honor. 11:21AM

10 THE COURT: All right. I'll look at that in a 11:21AM
11 minute. And so as I look at Count 99, Mr. Walker is saying 11:21AM
12 that this only deals with committing wire fraud. Right. So 11:21AM
13 this is dealing with wire transfers. All right. And what was 11:21AM
14 your point then, Mr. Martin? 11:22AM

15 MR. MARTIN: If it was page 7 -- 11:22AM

16 THE COURT: We're focusing only on Count 99. 11:22AM
17 That's what she says. Go ahead. 11:22AM

18 MR. MARTIN: Well, as far as 3003 is concerned, 11:22AM
19 Your Honor, our record -- 11:22AM

20 COURT REPORTER: I'm sorry, Your Honor, I don't 11:22AM
21 think the mic is on. 11:22AM

22 THE COURT: Mic. Mic. 11:22AM

23 MR. MARTIN: Sorry, Your Honor. As far as 11:22AM
24 Exhibit 3003. Number one, our records show it's not admitted, 11:22AM
25 page 7. Number 2, if it was admitted, it's dated 2013, which 11:22AM

1 is well after this declaration, and before this declaration. 11:22AM
2 And it does not support the government's theory that, oh, we 11:22AM
3 suddenly just now found out because it was back in 2013. So 11:22AM
4 -- and finally, Count 99 does not allege anything about moving 11:22AM
5 a business to the Philippines. 11:22AM

6 THE COURT: Okay, hold on one second. Let me 11:22AM
7 look at this carefully. 11:23AM

8 All right. Let's go back to this. All right. 11:23AM
9 Let me understand your proffer here. Why do you want -- give 11:23AM
10 me the reason why you want this document in? You want Crowe's 11:23AM
11 -- Mr. Crowe's declaration to a magistrate judge because he 11:23AM
12 wants to be able to be released from Guam and modify his 11:23AM
13 conditions of release. 11:24AM

14 And Mr. Crowe is saying, look, I'm part of Hansen 11:24AM
15 Helicopters. And he's basically -- he's basically saying, 11:24AM
16 hey, Hansen Helicopters is a corporation that has so many 11:24AM
17 employees. We've been on Guam for a long time. I mean, he 11:24AM
18 builds up Hansen Helicopters. So that's what he's doing. 11:24AM

19 And you're saying that you want to bring that 11:24AM
20 evidence in as part of the conspiracy because it relates to 11:24AM
21 Count 99? So tell me exactly and narrowly and what is your 11:24AM
22 proffer on Count 99, because let me just say, I've read 99. 11:24AM
23 So it's a conspiracy to commit wire fraud, that's what the 11:24AM
24 charge is, and all this other stuff about objects and manners, 11:24AM
25 okay, that's not -- you know, it's really the elements that 11:24AM

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1 the court looks to. I mean it's what the jury looks to, is 11:24AM
2 really the elements. All this other stuff is really your 11:24AM
3 theory of how the conspiracy occurred on wire fraud. And the 11:25AM
4 elements are, how do you -- what are you trying to prove, how, 11:25AM
5 with regard to this statement made in furtherance of a 11:25AM
6 conspiracy. Was this statement about his business made in 11:25AM
7 furtherance of a conspiracy? Go ahead. And the conspiracy to 11:25AM
8 commit wire fraud in particular. Go ahead. So what's your 11:25AM
9 proffer? 11:25AM

10 MS. S. MILLER: So the proffer, Your Honor is, 11:25AM
11 you heard testimony from Ms. Jones who reviewed also a lot of 11:25AM
12 the bank records. And one of the things she testified to was 11:25AM
13 that defendants started closing all their U.S. bank accounts 11:25AM
14 in the summer of 2018. She also admitted evidence, we didn't 11:25AM
15 go through it extensively, but we admitted evidence with Ms. 11:25AM
16 Jones that showed suddenly they opened a Wilma's bank account 11:25AM
17 in the summer of 2018 and started receiving funds from account 11:25AM
18 they couldn't identify at the time, which now we know is a 11:25AM
19 Philippine bank account. 11:25AM

20 So money was going into the Philippine bank 11:25AM
21 account from tuna boats and being transferred all around 11:26AM
22 between the accounts including Wilma's U.S. account. The 11:26AM
23 reason why this declaration is relevant is because, first of 11:26AM
24 all, it shows what one of the co-conspirators is stating the 11:26AM
25 relationship was between the defendants, what their roles were 11:26AM

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1 within the company.

11:26AM

2 THE COURT: All right. So -- but has that
3 already been established? I mean, is it cumulative? Have you
4 already established the relationship as stated by Crowe
5 already?

11:26AM

11:26AM

11:26AM

11:26AM

6 MS. S. MILLER: Right. But it's now relevant as
7 to Mr. Walker with respect to wire fraud. So I think we
8 admitted it, I can't remember what count --

11:26AM

11:26AM

11:26AM

11:26AM

11:26AM

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11:27AM

11:27AM

11:27AM

11:27AM

11:27AM

11:27AM

11:27AM

9 THE COURT: How are you connecting Walker, the
10 Philippines and Crowe right now? How are you connecting this
11 as far as Count 99 goes?

12 MS. S. MILLER: Sure. So he was requesting in...

13 THE COURT: Who is he?

14 MS. S. MILLER: Mr. Crowe was requesting to
15 modify bail so that he could travel to the Philippines.

16 THE COURT: Okay.

17 MS. S. MILLER: We have documents in evidence and
18 we will present further documents that show, for example, 3 --
19 Exhibit 3003 page 32 --

20 THE COURT: So Crowe's request, what is the date
21 of his declaration?

22 MS. S. MILLER: July 2018.

23 THE COURT: July what 2018 what day? July 5th.
24 So Crowe is requesting modification of his bail conditions or
25 his trial -- pretrial release conditions. All right.

1 MS. S. MILLER: Right. 11:27AM

2 THE COURT: On July 5, 2018. 11:27AM

3 MS. S. MILLER: Right. 11:27AM

4 THE COURT: This, okay, so this document -- I 11:27AM

5 mean, this was in 2018 his request and this is -- okay, so the 11:27AM

6 conspiracy here is 2000 to the present. So it's before -- 11:27AM

7 before this -- his release, his request for release condition, 11:27AM

8 he's asking that it be before what -- the start date on the 11:27AM

9 conspiracy. Correct? 11:27AM

10 MS. M. MILLER: After. 11:27AM

11 MS. S. MILLER: No. 11:27AM

12 MS. M. MILLER: After. 11:27AM

13 THE COURT: I'm sorry, that's right. It's after. 11:27AM

14 I read it wrong, 2020. Okay. That's right. 2018 you're 11:27AM

15 right. So 2018 he's requesting this and continuing to 11:28AM

16 present. What day did I say present meant? 11:28AM

17 MS. M. MILLER: Yes. 11:28AM

18 THE COURT: Was it January 8, 2021, right? 11:28AM

19 MS. M. MILLER: Correct. 11:28AM

20 MR. MARTIN: Correct. 11:28AM

21 THE COURT: So January 8, 2021. All right. And 11:28AM

22 this is -- okay. Very well. Go ahead. 11:28AM

23 MS. S. MILLER: So at the very time he's 11:28AM

24 submitting this declaration, which describes, allegedly, what 11:28AM

25 the company looked like, the relationship among the 11:28AM

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1 defendants, they're moving their operations to the 11:28AM
2 Philippines, large transfers of money from a Philippine -- we 11:28AM
3 now know Philippine bank account is coming into the U.S. bank 11:28AM
4 account. And then we see all of these Philippine -- 11:28AM

5 THE COURT: Okay, so we're looking at the 11:28AM
6 timeframe between July 5, 2018 to January -- well to 11:28AM
7 January 8, 2021. That's the timeframe that we're talking 11:28AM
8 about. 11:28AM

9 MS. S. MILLER: Yes. 11:28AM

10 THE COURT: Okay, and there is evidence to show 11:28AM
11 that there is okay. Go ahead. What's the evidence? 11:28AM

12 MS. S. MILLER: So you recall Ms. Jones testified 11:28AM
13 that four U.S. bank accounts were closed in the summer of 11:28AM
14 2018. And then the one remaining bank account that they 11:29AM
15 opened around that exact time, I think it was August 2018, 11:29AM
16 started -- you started seeing transfers in from an account 11:29AM
17 that at the time we couldn't identify, but we now know is a 11:29AM
18 Philippine bank account. 11:29AM

19 THE COURT: Okay. 11:29AM

20 MS. S. MILLER: So it's just further evidence 11:29AM
21 that there is a conspiracy among these defendants at the very 11:29AM
22 time that he's swearing under oath establishing that the 11:29AM
23 relationship was what Mr. Crowe says it is in the declaration, 11:29AM
24 that that's in furtherance of this conspiracy because at that 11:29AM
25 time, he was actually going to the Philippines to move their 11:29AM

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1 fraud scheme to the Philippines and we have bank records
2 backing that up among other things, like the -- the -- the
3 articles of incorporation documents in the Philippines with
4 Mr. Crowe and Mr. Walker's name on them.

5 THE COURT: Okay. And this is between the
6 timeframe of July 5, 2018 to January 8, 2021?

7 MS. S. MILLER: Yes, Your Honor, mostly in the
8 summer of 2018.

9 THE COURT: Well, summer. What is summer to you?

10 MS. S. MILLER: Summer and fall, the second half
11 of 2018. So the bank accounts were closed I believe in July
12 --

13 THE COURT: Yeah, but give me the dates, I mean I
14 need the dates. Some people count summer as one month. Okay.
15 So July 5, 2018, is the date that Mr. Crowe requested his
16 modification?

17 MS. S. MILLER: Right.

18 THE COURT: So when was the bank account opened
19 in the Philippines?

20 MS. S. MILLER: I don't have that date on the top
21 of my head, but I do have a document right here, which is when
22 they opened Pacific Spotters, which is November 21, 2018.

23 THE COURT: Okay. Is that part of the
24 Philippines bank account?

25 MS. S. MILLER: That's the Philippine company,

1 Pacific Spotters, and it was filed with the Securities
2 Exchange Commission.

3 THE COURT: Okay, but you're talking about wire
4 fraud. So you're talking about banks. All I care about is
5 the bank.

6 MS. S. MILLER: Right, but they had to submit
7 these documents to the bank in order to show they were
8 actually opening companies.

9 THE COURT: You told me a bank account was
10 opened. I want to know the date. So just look that up.

11 MS. S. MILLER: Sorry, I don't have that right in
12 front of me.

13 THE COURT: You guys should know that if you want
14 me to focus on this timeframe. And you're theory is, is that
15 there is a bank account that we're focusing in on, let's get
16 the date because the period is July 15th, I think we all
17 agree, if in fact -- I mean --

18 MR. MARTIN: Your Honor, I don't agree.

19 THE COURT: Okay, you don't have to agree. But
20 nobody has to agree with me, I don't care. It doesn't matter,
21 I'm not saying that flippantly, I'm saying you don't have to
22 agree with me. I'm trying to think this through logically.

23 If her proffer is Mr. Crowe was trying to further
24 the conspiracy of wire fraud, it would have to be, it would
25 have to be between I would -- I'm thinking out loud so if I'm

1 wrong, I know you'll try to correct me. 11:31AM

2 MR. MARTIN: No, I'm sorry, Your Honor. 11:31AM

3 THE COURT: As I'm thinking out loud, it would 11:31AM
4 have to be from the time that he made his request because he's 11:31AM
5 trying to go to the Philippines, July 5, 2018, and they're 11:31AM
6 saying there is an ongoing conspiracy, ongoing conspiracy 11:31AM
7 ends, according to my ruling, date of present, under the grand 11:32AM
8 jury indictment, second superseding is January 8, 2021. 11:32AM
9 That's the timeframe we're talking about. Do you agree with 11:32AM
10 that? 11:32AM

11 MR. MARTIN: No, Your Honor, can I briefly 11:32AM
12 respond? 11:32AM

13 THE COURT: Okay. Can I briefly -- why don't we 11:32AM
14 briefly come back after lunch. 11:32AM

15 MR. MARTIN: Sure. 11:32AM

16 THE COURT: Because I need to go have my lunch 11:32AM
17 and I need to use the restroom, to be honest. But okay, but 11:32AM
18 as you know, this is my thought process, if the -- the only 11:32AM
19 reason why I'm saying this is the -- if the prosecutor is 11:32AM
20 saying their proffer is what they say it is, is that the 11:32AM
21 conspiracy was still ongoing and that when Mr. Crowe made his 11:32AM
22 request to the magistrate judge, I want to leave Guam, but you 11:32AM
23 know what I want to leave Guam for whatever X reason, I have 11:32AM
24 to go back and look at the document, but if he says I want to 11:32AM
25 leave Guam but he was allegedly furthering a conspiracy and it 11:32AM

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1 was related to Count 99, then what evidence is that?

2 MR. MARTIN: I would ask the Court to look at
3 Counts 100 through 104 as well because that's the -- that's
4 the wire fraud counts that they're talking about that the
5 conspiracy relates to. And we could talk about that after
6 lunch, Your Honor.

7 THE COURT: Oh, I see. Okay. So the wire
8 transfers are, okay, the counts are 2015, the 2015 date?

9 MR. MARTIN: Yes, Your Honor.

10 MS. MCCONWELL: And 2016.

11 THE COURT: And 2016. So -- yeah, but her
12 argument is not so much as it relates to those dates that are
13 alleged in the indictment. Her argument is the timeframe up
14 to the present. So it sounds to me their theory -- I may be
15 wrong -- is between the 2018 of July 5th, to January 8, 2021.

16 MR. MARTIN: I know that's their theory, but I'm
17 saying the indictment doesn't support that based upon
18 Count 99. And then -- it's conspiracy to commit wire fraud.
19 The next four, five counts are wire fraud.

20 THE COURT: I may have to revisit this issue of
21 up to present then. Let me tell you why, okay, in terms of
22 notice to the defendant, and really, I do think I may have to
23 revisit that issue. That it may not -- you know, when we say
24 "up to present," what does that really mean?

25 I mean, if you're a defendant, you want notice of

1 what your crime is. And if there is an ongoing conspiracy, 11:34AM
2 they need to have you, the defense, defendant, Mr. Walker and 11:34AM
3 Hansen Helicopters, needs to know what exactly is the crime 11:34AM
4 that they're committing and what are the dates. So you know 11:34AM
5 what, you guys might want to revisit that, too. And we might 11:34AM
6 want to go back on that date and just use the date of the -- 11:34AM
7 of what's alleged in the indictment, because you surely and 11:34AM
8 could have and still can indict the defendants for conspiracy, 11:34AM
9 any defendant, just generally, let me put this out, any 11:35AM
10 defendant, for additional acts that are not... well, I mean 11:35AM
11 there could be double jeopardy argument, I have to think about 11:35AM
12 that, but anyway, putting that aside, if there's not -- we 11:35AM
13 might think about that, Counsels. We'll come back to that 11:35AM
14 issue. Up to present. 11:35AM

15 Do you understand what I'm saying, Marie Miller? 11:35AM

16 MS. M. MILLER: Yes, Your Honor. I do understand 11:35AM
17 what you're saying. I do understand what you're saying. But 11:35AM
18 part of this is twofold. Number one, at least through the 11:35AM
19 date of the indictment, obviously is going to be included and 11:35AM
20 we had a superseding indictment in 2021. 11:35AM

21 THE COURT: Yeah. 11:35AM

22 MS. M. MILLER: The second issue is, the 11:35AM
23 defendants, for the first time at trial, tried to assert that 11:35AM
24 Jon Walker either retired or stopped operating and went to 11:35AM
25 Missouri and did nothing. 11:35AM

1 So a lot of evidence that has come in regarding 11:35AM
2 actions had to do with refuting that contention which is not 11:35AM
3 correct. And the defendants have had notice because there 11:35AM
4 isn't the evidence that we're introducing regarding that that 11:35AM
5 they haven't seen that hasn't been part of the discovery or 11:35AM
6 the record. 11:36AM

7 Now this issue with the Limey bank and the Limey 11:36AM
8 Air account and the Philippine stuff, that happened in 2018. 11:36AM
9 And what the evidence is going to show is that the transfers 11:36AM
10 through the accounts that are the subject not only to the 11:36AM
11 conspiracy to commit wire fraud, but also the subject of the 11:36AM
12 substantive wire fraud counts, the money laundering counts, 11:36AM
13 came from their work in the Philippines. That is exactly what 11:36AM
14 Special Agent Khamvongsa is going to testify to. So we don't 11:36AM
15 even have to go beyond the date of the second superseding 11:36AM
16 indictment, Your Honor, to include all of this information. 11:36AM

17 THE COURT: No, okay, okay, you can -- okay, 11:36AM
18 we'll come back to this but I'm just saying that when a 11:36AM
19 prosecutor goes to the grand jury and they ask the grand jury 11:36AM
20 to return an indictment of a conspiracy to commit wire fraud 11:36AM
21 as in Count 99 -- 11:36AM

22 MS. M. MILLER: Yes. 11:36AM

23 THE COURT: - the execution of that fraud usually 11:36AM
24 has a date on it. 11:36AM

25 MS. M. MILLER: Yes. 11:36AM

Direct - Khamvongsa

1 THE COURT: Which you do in Counts 100 to 104, as 11:36AM
2 the defense Counsel has indicated. Now, as you're trying to 11:37AM
3 allege this, I mean, it becomes almost -- I'm not sure what 11:37AM
4 the right word is. It's not -- if there is no date on it, if 11:37AM
5 there is no -- if there is just no date, like on Count 100, 11:37AM
6 September 4, 2015, there was a fraud, a wire transfer -- 11:37AM

7 MS. M. MILLER: Right -- 11:37AM

8 THE COURT: Wait, wait, wait. So you have that 11:37AM
9 and the defendants can defend that. 11:37AM

10 MS. M. MILLER: Right. 11:37AM

11 THE COURT: Now, we're saying okay, there is a 11:37AM
12 conspiracy to keep the fraud going. 11:37AM

13 MS. M. MILLER: Right. 11:37AM

14 THE COURT: And so now, it's really they are -- 11:37AM
15 they are defending against actually further crimes, even 11:37AM
16 though it's not listed in the indictment. Not -- not -- it's 11:37AM
17 a further aggravation of a crime, I should say. 11:37AM

18 MS. M. MILLER: Correct. 11:37AM

19 THE COURT: Conspiracy. 11:37AM

20 MS. M. MILLER: Correct. 11:37AM

21 THE COURT: And conspiracy, obviously, is one of 11:37AM
22 the most powerful tools in a prosecutor's box. 11:37AM

23 MS. M. MILLER: Absolutely. 11:38AM

24 THE COURT: Because conspiracy is just so strong. 11:38AM

25 MS. M. MILLER: Yes. 11:38AM

1 THE COURT: And so wide. 11:38AM

2 MS. M. MILLER: Yes. 11:38AM

3 THE COURT: Wide web there. 11:38AM

4 MS. M. MILLER: Yes. 11:38AM

5 THE COURT: Anyway, so I'm just thinking out 11:38AM
6 loud. And let's come back to that, okay? 11:38AM

7 MS. M. MILLER: Yes, Your Honor. 11:38AM

8 THE COURT: You guys -- you think about that, 11:38AM
9 Counsels. 11:38AM

10 MS. M. MILLER: We will. 11:38AM

11 THE COURT: Let me just say something for 11:38AM
12 prosecution. I know you guys you got upset, but you know I 11:38AM
13 help you guys, too. I mean you say -- I throw out lifelines 11:38AM
14 -- 11:38AM

15 MR. MARTIN: I'm not upset, Your Honor. I'm not 11:38AM
16 upset. 11:38AM

17 THE COURT: You shouldn't be. I think I threw 11:38AM
18 out a lifeline yesterday, last night. But anyway my point is, 11:38AM
19 I do that sincerely and I call it case management, Counsels, 11:38AM
20 for the record, case management. 11:38AM

21 But you know what, you have -- you have an 11:38AM
22 indictment, this is your second superseding indictment, which 11:38AM
23 by the way, mine is getting holes in it because I've read it 11:38AM
24 so many times and you could see. Okay, keep it simple. 11:38AM

25 MS. M. MILLER: Yes. 11:38AM

Direct - Khamvongsa

1 THE COURT: Just keep it simple. 11:38AM

2 MS. M. MILLER: Yes, Your Honor. 11:38AM

3 THE COURT: That's all. Think about it. 11:38AM

4 MS. M. MILLER: Yes, Your Honor. We will, thank 11:38AM

5 you. 11:38AM

6 THE COURT: I'll see all of you guys at -- time 11:38AM

7 -- 12:30. Go to your lunch. 11:39AM

8 MS. S. MILLER: Your Honor, can I give you 11:39AM

9 specific cite to a document you might want to take a look at 11:39AM

10 you're reviewing this? 11:39AM

11 THE COURT: Sure. 11:39AM

12 MS. S. MILLER: So it's in evidence already. 11:39AM

13 Exhibit 2898. 11:39AM

14 THE COURT: 2898. Okay, go ahead. 11:39AM

15 MS. S. MILLER: Page 14. You'll see deposits 11:39AM

16 coming in. That's when they begin with Pacific.Spotters, 11:39AM

17 which is the Philippine version of Pacific Spotters. 11:39AM

18 THE COURT: Okay. So just, yeah, and yeah. All 11:39AM

19 right. 11:39AM

20 MS. S. MILLER: Thank you. 11:39AM

21 THE COURT: Thank you. I'll look at it. 11:39AM

22 MS. S. MILLER: Thank you. 11:39AM

23 THE COURT: Okay. Thank you. 11:39AM

24 (Recess taken at 11:39 a.m.) 11:39AM

25 (Back on the record at 12:39 p.m.) 12:39PM

Direct - Khamvongsa

1 THE COURT: All right. We're back on the record. 12:39PM
2 All Counsels are present, defendants are present and the 12:39PM
3 witness is present. 12:39PM

4 And so the Court has reviewed G-2898-14, which 12:39PM
5 was what was requested of by Ms. Samantha Miller. And it 12:39PM
6 appears that this is dated July 21 -- sorry, July 31, 2018 -- 12:39PM
7 and so -- July 31. Hold on a second. Let me just check 12:39PM
8 another thing. Hold on. Did you have a chance to review 12:39PM
9 that, Mr. Martin and Ms. McConwell? The exhibit? 12:39PM

10 MR. MARTIN: I did, Your Honor. 12:39PM

11 THE COURT: Okay. We might ask Mr. Khamvongsa to 12:39PM
12 step out on this. 12:40PM

13 MS. S. MILLER: Sith. 12:40PM

14 THE COURT: Khamvongsa, I'm sorry, Khamvongsa, 12:40PM
15 Khamvongsa. Just continue to step out. I'm sorry, 12:40PM
16 Mr. Khamvongsa. 12:40PM

17 THE WITNESS: No problem, thank you, Your Honor. 12:40PM

18 (Witness exited courtroom.) 12:40PM

19 THE COURT: Yeah. Thank you. Okay, this -- all 12:40PM
20 right. So let me just tell you what I'm looking at. 12:40PM
21 Mr. Crowe's request was July 5, 2018. That's when he signed 12:40PM
22 the declaration; is that correct? 12:40PM

23 MS. S. MILLER: Yes, Your Honor. 12:40PM

24 THE COURT: Was it approved for him to travel and 12:40PM
25 what day was that or what period of time, do you guys know ? 12:40PM

Direct - Khamvongsa

1 MS. S. MILLER: When he was supposed to travel? 12:40PM

2 THE COURT: No, what day did the judge approve -- 12:40PM

3 or when did he travel? You said the judge approved it, but 12:40PM

4 what day did he actually travel, if he did travel? 12:40PM

5 MS. S. MILLER: That I don't know. I don't know 12:41PM

6 whether he ended up traveling or not, Your Honor. The motion 12:41PM

7 was on the 5th. 12:41PM

8 THE COURT: No, yeah, but the critical thing -- 12:41PM

9 no, but wait. The critical thing is you're saying that he 12:41PM

10 traveled to the Philippines. So I need to know what date did 12:41PM

11 he actually travel? 12:41PM

12 (Pause.) 12:41PM

13 MS. S. MILLER: I don't know what date he 12:41PM

14 traveled. I do know that he signed paperwork for Philippines 12:41PM

15 in November of 2018 and that's in a different document. 12:41PM

16 THE COURT: I'm sorry. Can you repeat -- okay, 12:41PM

17 wait. This is what -- let me just back up. 12:41PM

18 MS. S. MILLER: Sure. 12:41PM

19 THE COURT: His request that you showed me, was 12:41PM

20 that he signed this on July 5, 2018. 12:41PM

21 MS. S. MILLER: Right. 12:41PM

22 THE COURT: His declaration to the judge? Right? 12:41PM

23 MS. S. MILLER: (Nodded head.) 12:41PM

24 THE COURT: So a modification was made. You said 12:41PM

25 there was a bank account. So you're showing me a wire 12:41PM

Direct - Khamvongsa

1 transfer account on G-2898-14; correct?

12:41PM

2 MS. S. MILLER: Yes, that's money coming into the
3 United States account from the Pacific Spotters Philippine
4 bank account. That's what I was directing Your Honor to.

12:41PM

12:42PM

12:42PM

5 THE COURT: Okay. So this is coming -- okay, so
6 it's a transfer from U.S. -- no, from the Philippines to U.S.?

12:42PM

12:42PM

7 MS. S. MILLER: Right. At bottom of that page.

12:42PM

8 THE COURT: And that's on July 31 -- well
9 actually the date -- the transfer is actually July 27th.

12:42PM

12:42PM

10 MS. S. MILLER: Right.

12:42PM

11 THE COURT: All right. Let me get these dates
12 right. Okay. I'm sorry, wire transfer from the PI -- from
13 the Philippines to U.S.?

12:42PM

12:42PM

12:42PM

14 MS. S. MILLER: Yes, Your Honor.

12:42PM

15 THE COURT: All right. And then, okay, so these
16 are the critical dates that I know as of right now, hold on.

12:42PM

12:42PM

17 Okay, so -- so the -- Mr. Crowe's declaration was
18 signed July 5, 2018. The wire transfer from the Philippines
19 to the United States is evidence, according to the prosecutor,
20 on G-2898-14, which is July 27, 2018. Okay. So July 27,
21 2018. And the date of pres -- date to present on the grand
22 jury indictment is January 8, 2020 -- what year? Two? One?

12:43PM

12:43PM

12:43PM

12:43PM

12:43PM

12:43PM

23 MR. MARTIN: '21.

12:43PM

24 THE COURT: Okay. January 2021. So the
25 prosecution, you're saying that he was actually in the

12:43PM

12:43PM

Direct - Khamvongsa

1 Philippines. When was he in the Philippines, that's my
2 question.

3 MS. S. MILLER: So an exhibit that we're seeking
4 to introduce with this witness is the Philippine bank records.
5 They're not in evidence, yet, but we've marked them. The
6 defense has them. And those records show opening the
7 signature card in the Philippines for Pacific Spotters
8 Corporation on July 26, 2018.

9 THE COURT: All right. Okay. Okay. So somebody
10 opened an account in the Philippines? Is that what you're
11 saying?

12 MS. S. MILLER: Yes, Jon Walker, Crowe, Kapp.

13 THE COURT: Who opened the account? Somebody
14 opened the account. Who opened the account?

15 MS. S. MILLER: So Mr. Walker's signature and Mr.
16 Crowe's are both on it, on the signature card paperwork.

17 MS. MCCONWELL: What exhibit is this?

18 MS. S. MILLER: That's 3020, which has not been
19 admitted, yet.

20 MS. MCCONWELL: It was not on our exhibit list.

21 THE COURT: Okay. Hold on. So there was a
22 signature -- we'll get to that in a minute. I just got to get
23 the dates figured out. The signature card was signed -- there
24 was a signature card by Mr. Crowe and Mr. Walker. And it was
25 a Philippines bank account, right?

Direct - Khamvongsa

1 MS. S. MILLER: Yes, Your Honor. 12:44PM

2 THE COURT: An opening of an account? 12:44PM

3 MS. S. MILLER: Yes. 12:45PM

4 THE COURT: Okay. Bank. All right. So it was 12:45PM

5 on July? 12:45PM

6 MS. S. MILLER: 26. 12:45PM

7 THE COURT: 26, 2018? 12:45PM

8 MS. S. MILLER: Yes. 12:45PM

9 THE COURT: Okay. So there was a wire transfer 12:45PM

10 that you're focusing in on only. And that's the only wire 12:45PM

11 transfer that you're telling me right now, July 27, 2018; 12:45PM

12 correct? 12:45PM

13 MS. S. MILLER: That is one example, yes. There 12:45PM

14 is a lot of example of wire transfers. 12:45PM

15 THE COURT: All I care about is the relevant 12:45PM

16 sample for my decision. So listen to -- 12:45PM

17 MS. S. MILLER: Yes. 12:45PM

18 THE COURT: Listen to that, because that's 12:45PM

19 critical. So July 27, 2018, since you guys don't know -- so 12:45PM

20 the request to travel was granted August 27, 2018. I pulled 12:45PM

21 this out myself, ECF 129. So it was granted. The question 12:45PM

22 is, what dates did he travel? Does anybody know? Can we try 12:45PM

23 to get that? Can we try -- this is the day that the judge 12:45PM

24 granted it. I guess I want to know what date was he in the 12:45PM

25 Philippines, because if you're trying to say that he was 12:45PM

Direct - Khamvongsa

1 conducting business in the Philippines during a specific 12:46PM
2 timeframe, then where is it in relation to the bank records? 12:46PM
3 Okay? I mean that's what we're talking about. 12:46PM

4 MS. S. MILLER: Right. And that exhibit isn't in 12:46PM
5 evidence, yet, Your Honor. But... 12:46PM

6 THE COURT: But putting that aside, even if it's 12:46PM
7 not in evidence, so give me an example. 12:46PM

8 MS. S. MILLER: So the signature card pages -- 12:46PM

9 THE COURT: I got that. 12:46PM

10 MS. S. MILLER: Are July 26th. The day -- 12:46PM

11 THE COURT: You already said that. I got that 12:46PM
12 down. So what is the banking transaction? You said he was 12:46PM
13 conducting banking transaction during that timeframe. So... 12:46PM

14 MS. S. MILLER: Right -- 12:46PM

15 THE COURT: No, but I'm talking about his actual 12:46PM
16 presence in the Philippines, because your theory was that he 12:46PM
17 was in the Philippines conducting business. When was he 12:46PM
18 present? That's my question. 12:46PM

19 MS. S. MILLER: I believe he was present to sign 12:46PM
20 those signature card documents in the Philippines. 12:46PM

21 THE COURT: How could he have been there if he 12:46PM
22 didn't get approved until after that time? 12:46PM

23 MS. S. MILLER: I thought you just said it was 12:46PM
24 the 26th. 12:46PM

25 THE COURT: August 27th. This is July. Did you 12:46PM

Direct - Khamvongsa

1 say it was July 26th? Did you say it was July 26, 2018?

2 MS. S. MILLER: That's when he signed signature
3 card documents in the Philippines.

4 THE COURT: Okay. But according to our court
5 record, the judge did not grant his request to travel until
6 August 27, 2018. So that's a month later.

7 MS. S. MILLER: Well, perhaps he ignored and did
8 it anyway, I'm not sure.

9 THE COURT: If he ignored it, his butt would be
10 grass and he would be arrested and he'd be put in jail. I'll
11 tell you that right now. So don't say stuff like that because
12 you can't. You've got to give me -- my question is, when was
13 he in the Philippines because you're saying -- you're arguing
14 that he was in the Philippines to conduct business.

15 MS. S. MILLER: Right. What I'm saying is, he
16 signed documents for bank records in the Philippines on
17 July 28th -- I'm sorry, 26, 2018 and then there were large
18 transfers the next day into their U.S. bank accounts from a
19 Philippine bank account with the same name.

20 THE COURT: Yeah, but you're not listening to me,
21 though. You argued earlier, Ms. Samantha Miller, that the
22 defendant was in the Philippines during this critical period
23 of time. My question is, what days was he in the Philippines?

24 MS. S. MILLER: I don't know.

25 THE COURT: Well, then I'm going to deny your

Direct - Khamvongsa

1 request. 12:48PM

2 MS. S. MILLER: Well, may I respond? 12:48PM

3 THE COURT: You got -- no, you -- it's your 12:48PM
4 burden. You are here -- they're making an objection, figure 12:48PM
5 it out. 12:48PM

6 MS. S. MILLER: Well, my response, Your Honor, is 12:48PM
7 -- 12:48PM

8 THE COURT: It's not good enough. Your response 12:48PM
9 is not good enough because it's not evidence. All I care 12:48PM
10 about is evidence. I don't care that you said well, he might 12:48PM
11 have just violated the court law -- court order. Let me tell 12:48PM
12 you, these U.S. Probation offices and the United States 12:48PM
13 Attorney's office, I would assume, would be on his grass to 12:48PM
14 get a revocation and put him in jail. So that's not a good 12:48PM
15 comeback. 12:48PM

16 MS. S. MILLER: Well, my response, Your Honor, is 12:48PM
17 that the point of all this, the point of citing to that 12:48PM
18 document at all is to show that he was swearing under oath as 12:48PM
19 a co-conspirator as to one thing about some of the paragraphs 12:48PM
20 on that declaration talk about sort of where they're located, 12:48PM
21 who works for the company. 12:48PM

22 THE COURT: Let me tell you something, I already 12:48PM
23 know it, I'm a fast learner, I've already read it. But you 12:48PM
24 come into the court on a proffer to say that the defendant was 12:48PM
25 in the Philippines during this critical period of time. 12:49PM

Direct - Khamvongsa

1 My only question is, when was he in the
2 Philippines? During -- between July 5th, no, not even that,
3 from the date the judge granted his request to the time of
4 date of -- to the indictment.

5 (Counsel conferring.)

6 MS. S. MILLER: Maybe I misunderstood what Your
7 Honor was asking.

8 THE COURT: No. Okay. Go ahead. Maybe you did.
9 Go ahead.

10 MS. S. MILLER: So some of the documents that
11 have already been admitted with respect to -- from the
12 Philippines Civil Aviation Authority have him signing
13 documents in December of 2018, where he had to physically sign
14 documents.

15 THE COURT: Okay. Was he there?

16 MS. S. MILLER: I assume so.

17 THE COURT: Don't assume it.

18 MS. S. MILLER: I mean yes. He signed documents
19 as if --

20 THE COURT: Hold on, hold on. Hold on. I don't
21 know if you do bail hearings. I don't know who does bail
22 hearings over there in the prosecution side. But let me tell
23 you, when the judge gives a defendant an opportunity to modify
24 his release conditions, they'll say, okay, and we would know.
25 The record would be he left on this date and returned on this

Direct - Khamvongsa

1 date. Does anybody know the answer to that question? 12:50PM

2 (Counsels conferring.) 12:50PM

3 MS. S. MILLER: What, is this an ECF number? 12:50PM

4 MS. M. MILLER: No. But this is what we have 12:50PM
5 from probation. 12:50PM

6 MS. S. MILLER: Okay. Apologies, Your Honor. 12:50PM
7 This was well before I was involved in this case, so I didn't 12:50PM
8 have this document available to me. 12:50PM

9 THE COURT: I know, but can I say something? If 12:50PM
10 you're going to argue it, you got to be prepared on this. So 12:50PM
11 your proffer is that the defendant was in the Philippines 12:50PM
12 conducting business. All I care about right now because I've 12:50PM
13 got the dates, I've got the start date and the end date right 12:50PM
14 here. 12:50PM

15 MS. S. MILLER: Sure. 12:50PM

16 THE COURT: And really, the start date would 12:50PM
17 actually be when the judge granted it August 27th, but not 12:50PM
18 even that. It will be the date that he actually traveled. 12:50PM

19 So what date did he travel and what date did he 12:50PM
20 return on that particular request, which was related to the 12:50PM
21 declaration of Crowe? That's all I care about. Do you 12:51PM
22 understand what I'm saying now? 12:51PM

23 MS. S. MILLER: Yes. 12:51PM

24 THE COURT: Go ahead. 12:51PM

25 MS. S. MILLER: And now I have his itinerary in 12:51PM

1 front of me, it looks like he left Guam on November 17, 2018.

2 THE COURT: Okay. Hold on. So -- okay, so let
3 me see. So the judge granted it August 27, 2018. This is
4 when judge granted. Okay. And then he departed Guam on what
5 day, November what?

6 MS. S. MILLER: November 17, 2018.

7 THE COURT: November 17, 2018. Okay. To. And
8 when did he return?

9 MS. S. MILLER: He returned December 1st, 2018.

10 THE COURT: 12/1/2018. Okay, so he was gone
11 almost like two or, yeah, two and a half, three weeks.

12 MS. S. MILLER: Yes, Your Honor.

13 THE COURT: So this is when he's in the
14 Philippines. And where did you find this from?

15 MR. LEON GUERRERO: It was the itinerary provided
16 to probation, Your Honor.

17 THE COURT: I don't care about an itinerary. I
18 want to know, did he make the flight.

19 MR. LEON GUERRERO: This is what he gave
20 probation.

21 THE COURT: Right. So you could give probation
22 anything you want.

23 MS. M. MILLER: We're getting the affidavit that
24 he signed in the Philippines with a notary from the
25 Philippines. We're getting that exhibit for Your Honor right

1 now.

2 THE COURT: Okay. Should have had it like an
3 hour ago.

4 MS. M. MILLER: I understand, but it's part of
5 3003 and we only introduced certain provisions of 3003, one of
6 which included John Walker's signature in the Philippines on
7 that same date, but we're pulling that.

8 THE COURT: That's fine. You could pull that.
9 But my point is, the critical timeframe, was he in the
10 Philippines.

11 MS. M. MILLER: Yes.

12 THE COURT: Defense attorney can give a probation
13 officer -- listen, I've been through so many bail hearings.
14 I've been a judge 29 years. I know all the games that
15 everybody plays with these -- I know all the games that
16 defendants play. That's what I mean. And sometimes they're
17 in or they're out. Sometimes they give a judge an itinerary
18 and then they change their itinerary. So it doesn't matter.
19 The question is, when was his actual days of travel, when was
20 he in the Philippines and when did he leave the Philippines.
21 That's what I care about. So do we have that information? We
22 have an itinerary and it could very well be, Mr. Leon
23 Guerrero, Ms. Miller that, yes, it is consistent with his
24 itinerary. It could also very well not be that.

25 MS. M. MILLER: Right.

Direct - Khamvongsa

1 THE COURT: I've seen this happen all the time. 12:53PM
2 All right. So, all right, so you think that he was in the 12:53PM
3 Philippines November 17, 2018 to December 1, 2018. Okay. The 12:53PM
4 wire transfer that you are discussing, this Bank of Hawaii 12:53PM
5 transfer occurred July 27, 2018, before he was there. Okay. 12:53PM
6 So that's irrelevant. This is irrelevant. 12:53PM

7 MS. S. MILLER: Well, I cited it to Your Honor as 12:53PM
8 an example of why that bank account was opened and what sort 12:53PM
9 of came after that to show that what his dec -- how his 12:54PM
10 declaration at that time was relevant and what happened after 12:54PM
11 that with respect to conspiracy to commit wire fraud. So that 12:54PM
12 was when those transfers began and they continued thereafter 12:54PM
13 because that is right after he opened this account. 12:54PM

14 THE COURT: I know. But you were telling me and 12:54PM
15 the prosecutor this morning, I mean the defense Counsel this 12:54PM
16 morning that he was there during these time -- this timeframe 12:54PM
17 where he was conducting actual business. This business of 12:54PM
18 transfer, yeah, he signed the card in July, he even signed it 12:54PM
19 before he -- before -- yeah, he signed it before -- he signed 12:54PM
20 the court -- the bank in July, but he probably wasn't in the 12:54PM
21 Philippines there. 12:54PM

22 MS. S. MILLER: Right. So the sequence of events 12:54PM
23 was, he requests permission to leave the country, an account 12:54PM
24 is opened in the Philippine. 12:54PM

25 THE COURT: Okay. 12:54PM

Direct - Khamvongsa

1 MS. S. MILLER: Transfers start coming from that 12:54PM
2 account into the U.S. bank account, four other U.S. bank 12:54PM
3 accounts are closed, another Limey bank account is opened in 12:55PM
4 the U.S. where we see lots of money going back and forth 12:55PM
5 between the Philippine bank account. Then he gets permission 12:55PM
6 to travel to the Philippines and he does to submit documents 12:55PM
7 to the Philippines Civil Aviation Authority establishing 12:55PM
8 Pacific Spotters, the fact that he's a director at Pacific 12:55PM
9 Spotters and registering the same aircraft that are registered 12:55PM
10 in the United States, that are the subject of the conspiracy 12:55PM
11 count. 12:55PM

12 THE COURT: Okay, but your statement to the Court 12:55PM
13 was, he was actually in the Philippines conducting business 12:55PM
14 and you were going to pull out -- I mean actually conducting 12:55PM
15 business. He was in the Philippines. He was not in the 12:55PM
16 Philippines when this business was conducted. Not this 12:55PM
17 exhibit. I'm just talking about this exhibit. I'm only 12:55PM
18 looking at what you guys are giving me. So he was not in the 12:55PM
19 Philippines on July 27th, according to just what you guys have 12:55PM
20 said. He was in the Philippines August, September, October, 12:55PM
21 four months later. 12:55PM

22 MS. S. MILLER: Right, Your Honor. And the 12:55PM
23 reason why it's relevant is because it shows that pattern, the 12:55PM
24 timeline of events. 12:56PM

25 THE COURT: But that wasn't your proffer. Your 12:56PM

1 proffer was that he was in the Philippines conducting
2 business. That was your proffer.

3 MS. S. MILLER: I apologize if I wasn't specific
4 enough with respect to the timing of each of these incidents
5 but --

6 THE COURT: No, you were specific. The question
7 -- the thing is --

8 MS. S. MILLER: I didn't realize it was granted
9 three months later. I thought it was granted more quickly. I
10 thought the order was granted more quickly, so I was mistaken
11 about that.

12 MS. M. MILLER: Your Honor, just so you know,
13 Mr. Lujan, on behalf of Mr. Crowe, filed a pleading with the
14 Court and signed it as an officer of the Court stating as
15 follows: "The government --" this is when we objected to a
16 later trip by Mr. Crowe to the Philippines.

17 "The government fails to address the basic fact
18 that in 2018 with this Court's approval, ECF 178, Crowe
19 traveled to the Philippines and returned to Guam as he
20 promised."

21 THE COURT: Well, here's the deal, he -- Crowe
22 and Kapp and whoever else has been allowed to travel,
23 including Mr. Walker, a magistrate judge, and even this Court,
24 will look at what is his travel history? Or her travel
25 history. If they are following the rules, if they are not

1 breaking the law, then they're not a flight risk, really,
2 they're not a flight risk. And you guys know that. I mean,
3 the Court has to look at that under the bail statute.

4 But anyway, all right, so back to this. So
5 that's why I'm really like going at you here, Ms. Samantha
6 Miller, because you're telling the Court he was in the
7 Philippines conducting business during a relevant transaction
8 of wire fraud. And you're specifically saying the date that
9 he signed the card. Not true. He wasn't in the Philippines
10 then. You said -- then you presented to the Court Exhibit
11 289814, which again he was not in the Philippines on that
12 date.

13 MS. S. MILLER: And I apologize, Your Honor. I
14 thought that he got there sooner than he did, but it all is
15 relevant because that's when it started. So the transfer
16 started in July. Then as I said, accounts were closed in the
17 U.S., accounts were opened in the Philippines, money starts
18 going back and forth between the remaining U.S. accounts and
19 the Philippine account, then he flies there to submit the
20 documents to this Philippine Civil Aviation Authority for the
21 aircraft that are listed in Count 99 in the conspiracy to
22 commit wire fraud.

23 THE COURT: Okay, so that's your theory. Where
24 is the evidence that he then signed documents with leases, is
25 that what you're saying?

1 MS. S. MILLER: Yes, Your Honor, so -- 12:58PM

2 THE COURT: What exhibit will that be or has that 12:58PM
3 been? 12:58PM

4 MS. S. MILLER: Pages of that exhibit have been 12:58PM
5 admitted, one of which is it's Exhibit 3003. 12:58PM

6 THE COURT: Okay. And what page? 12:58PM

7 MS. S. MILLER: Pages 32 through 36. 12:58PM

8 THE COURT: All right. What else? 12:58PM

9 MS. S. MILLER: So for example -- 12:58PM

10 THE COURT: No. No. Don't tell me what it is. 12:58PM
11 I don't want you guys to read anything to me. I would rather 12:58PM
12 read it myself. Just tell me the exhibit numbers. 12:58PM

13 MS. S. MILLER: So that's one example. 12:58PM

14 THE COURT: Is there any -- are there any other 12:58PM
15 examples? 12:58PM

16 MS. S. MILLER: That entire document we didn't 12:59PM
17 admit as a whole, but the whole document evidences -- 12:59PM

18 THE COURT: I got that. I got that. So my point 12:59PM
19 is, is Exhibit 3003, pages 32 through 36, all of the relevant 12:59PM
20 exhibits that you want us to look at for purposes of this 12:59PM
21 proffer? Including, including what you just gave me which is 12:59PM
22 the 2898-14 and whatever else you already gave me. 12:59PM

23 MS. S. MILLER: So Your Honor, it would be that 12:59PM
24 entire exhibit. Not just those pages. And then 3020 is the 12:59PM
25 Philippine bank record, which have not been admitted yet. 12:59PM

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1 We're seeking to admit that --

12:59PM

2 THE COURT: All I care about is just give me
3 exhibits. Give it to me and the defense Counsels. What are
4 the exhibit numbers? Okay. We've got 3003, 32 through 36,
5 I'll look at that. What's the other exhibit?

12:59PM

12:59PM

12:59PM

12:59PM

12:59PM

6 MS. S. MILLER: 3020.

7 THE COURT: Okay. And that's the bank account?

12:59PM

8 MS. S. MILLER: The Philippine bank records, yes,
9 Your Honor.

12:59PM

12:59PM

12:59PM

10 THE COURT: Anything else?

11 MS. S. MILLER: There is one other document we
12 were going to admit with this witness, which is the Limey --

12:59PM

12:59PM

13 THE COURT: Remember, all I care about is what's
14 relevant to this issue. I don't care about anything else.
15 Because I -- don't make me read something I don't need to
16 read.

12:59PM

12:59PM

12:59PM

01:00PM

17 MS. S. MILLER: Of course, Your Honor. So those
18 -- that exhibit is 2939.

01:00PM

01:00PM

19 THE COURT: Okay. And what is that?

01:00PM

20 MS. S. MILLER: That's the Limey account bank
21 records.

01:00PM

01:00PM

22 THE COURT: Okay.

01:00PM

23 MS. S. MILLER: And the last two pages of that
24 document, which I believe -- so Counsel objected initially
25 because we didn't have the right witness for it, so those have

01:00PM

01:00PM

01:00PM

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1 not been admitted, but I believe it's page 82 and 83 of that
2 document.

3 THE COURT: Make sure it's the right page, don't
4 just -- make sure you send us to the right pages.

5 MS. S. MILLER: Yes, let me triple check here.
6 (Pause.)

7 THE COURT: Carmen, maybe you could pull these
8 for me, too. We have the hardcopy. I want to see Exhibits
9 3003, pages 32 through 36, Exhibit 3020 and then Exhibit 2939.
10 What page?

11 MS. S. MILLER: So the first page, which would be
12 the signature page so you could see who's on that and then
13 pages 82 and 83.

14 THE COURT: So 82 and 83. Those are the only two
15 pages --

16 MS. S. MILLER: I just said that they are not
17 admitted, yet, but yes, those are the relevant pages.

18 THE COURT: Okay, they're not admitted. So we're
19 -- you're just trying to see if she even has -- she's trying
20 to lay a proffer here. All right. Any other exhibits?

21 MS. S. MILLER: Anything else?

22 MS. M. MILLER: No.

23 MS. S. MILLER: No. That should be it.

24 THE COURT: So let's be clear so we're all on the
25 same page, we're all speaking the same language. Are you

1 saying then that these exhibits will demonstrate to the Court 01:01PM
2 that the defendant, I'm sorry, that Mr. Crowe, in particular, 01:01PM
3 was in the Philippines at relevant times that are pertinent to 01:01PM
4 Count 99? 01:01PM

5 MS. S. MILLER: Yes, Your Honor. 01:01PM

6 THE COURT: As it deals with wire fraud? As it 01:01PM
7 deals -- is that what you're saying? Yes? 01:01PM

8 MS. S. MILLER: Conspiracy to commit wire fraud, 01:01PM
9 yes. 01:01PM

10 THE COURT: Conspiracy to commit wire fraud and 01:01PM
11 specifically as it deals with -- that's Count 99. But also as 01:01PM
12 it deals with Counts 100 to 104, which focus in on the 01:01PM
13 execution of the fraud? Is that what you're saying? 01:01PM

14 MS. S. MILLER: It's the same -- yes, the wire 01:02PM
15 fraud went between the same bank account. So it's relevant in 01:02PM
16 that, it's not those specific transactions because as we said, 01:02PM
17 Your Honor, earlier, we didn't get the Philippine bank records 01:02PM
18 until very recently. 01:02PM

19 THE COURT: So the answer is no, it has nothing 01:02PM
20 to do with 100 to 104, because 100 to 104 is very specific. 01:02PM

21 MS. S. MILLER: Sure. 01:02PM

22 THE COURT: So is it relevant to 100 to 104 or is 01:02PM
23 it not relevant? 01:02PM

24 MS. S. MILLER: It is less relevant than it is to 01:02PM
25 99. 01:02PM

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1 THE COURT: No, forget that. If you're a 01:02PM
2 prosecutor -- you are the prosecutor, are you going to prove 01:02PM
3 that -- what are you trying to prove then as it relates to 01:02PM
4 this count? Are you going to -- are you going to introduce 01:02PM
5 evidence that this proffer will prove that he committed wire 01:02PM
6 fraud, the execution of wire fraud is 100 to 104 here? 01:02PM

7 MS. S. MILLER: No, Your Honor. 01:02PM

8 THE COURT: Okay, so then it's no. 01:02PM

9 MS. S. MILLER: Okay. 01:02PM

10 THE COURT: No, I mean it's no. Right? 01:02PM

11 MS. S. MILLER: Well, it's involving the same 01:02PM
12 bank account, some of the same bank accounts. The specific 01:02PM
13 wire fraud transactions involve the same U.S. bank accounts. 01:03PM

14 THE COURT: Okay, okay. That may be so, but Ms. 01:03PM
15 Miller. Samantha Miller. 01:03PM

16 MS. S. MILLER: Yes. 01:03PM

17 THE COURT: All we care about the pros -- the 01:03PM
18 defense is arguing against specific counts that you are saying 01:03PM
19 is relevant. So it's either relevant to 100 to 104 in terms 01:03PM
20 of your burden of proof and the answer, I think you're saying, 01:03PM
21 is not relevant to the execution of wire fraud on these 01:03PM
22 counts, the 2015 date. It's not relevant to any of that. 01:03PM

23 MS. S. MILLER: Okay, Your Honor, I will concede 01:03PM
24 that. 01:03PM

25 THE COURT: You will concede that, right? 01:03PM

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1 MS. S. MILLER: Yes.

01:03PM

2 THE COURT: I'm not trying to make you tell me,
3 I'm not trying to make you answer the way I think to me seems
4 the certain way. I want to make sure that I understand your
5 theory how you're proving your case. So is it or is it not
6 relevant to your prosecution beyond a reasonable doubt of
7 Counts 100 to 104?

01:03PM

01:03PM

01:03PM

01:03PM

01:03PM

01:03PM

8 MS. S. MILLER: It is not relevant, Your Honor.

01:03PM

9 THE COURT: Okay. So it's out. Let's not even
10 talk about that. All right. So that's -- overruled on that
11 objection, Mr. Martin. Because you thought -- you were
12 talking about 100 to 104. Okay. All right. Anything else?
13 Are these all the exhibits?

01:03PM

01:03PM

01:03PM

01:04PM

01:04PM

14 MS. S. MILLER: Yes, Your Honor. For count --
15 relevant to Count 99, conspiracy to commit wire fraud.

01:04PM

01:04PM

16 THE COURT: And your focus is just Count 99?

01:04PM

17 MS. S. MILLER: Yes, Your Honor.

01:04PM

18 THE COURT: All right. Thank you. Now defense?
19 Have you looked at all this? You want to look at it? Because
20 all I looked at -- I have looked --

01:04PM

01:04PM

01:04PM

21 MR. MARTIN: I just looked at the... excuse me,
22 Your Honor, what we were given before we went to lunch.

01:04PM

01:04PM

23 THE COURT: Yes.

01:04PM

24 MR. MARTIN: That's the only thing. The other
25 exhibits, I have not looked at.

01:04PM

01:04PM

1 THE COURT: Okay. Excuse me. 2898-14, the Bank 01:04PM
2 of Hawaii? 01:04PM

3 MR. MARTIN: That's the one I looked at. 01:04PM

4 THE COURT: Okay, I have looked at it, too, but I 01:04PM
5 have not looked at everything else, yet, because she's just 01:04PM
6 announced it. 01:04PM

7 MR. MARTIN: Right. 01:04PM

8 THE COURT: Okay. So you want to look at it? 01:04PM

9 MR. MARTIN: I would appreciate the opportunity. 01:04PM

10 THE COURT: Why don't we take, like, take about 01:04PM
11 15 minutes to look at it. I'll pull mine up and then we'll go 01:04PM
12 to that and look at it. You have any questions on her proffer 01:05PM
13 so that we all are on the same wavelength? 01:05PM

14 MR. MARTIN: The only thing I was saying, Your 01:05PM
15 Honor, related to Counts 100 through 104 was that -- my point 01:05PM
16 was that the conspiracy count relates to those counts and the 01:05PM
17 date therefore that makes this relevant is the 2015 area, 01:05PM
18 therefore, Mr. Crowe's affidavit in 2018 is three years after 01:05PM
19 the alleged conspiracy to commit wire fraud that is supported 01:05PM
20 by Counts 100 through 104. 01:05PM

21 THE COURT: No, you're right on that. I agree 01:05PM
22 with you on that. I'm just -- so it is -- but it's irrelevant 01:05PM
23 to -- you're right, I mean I agree with you on that. So I 01:05PM
24 shouldn't have said -- anyway, your objection should be 01:05PM
25 sustained on that. That's what I meant to say. It is 01:05PM

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1 sustained on that. But she's saying up to the present. 01:05PM

2 That's what she's saying. That's their theory now. Is that 01:05PM
3 right? 01:05PM

4 MS. S. MILLER: Yes. And that's what's stated in 01:05PM
5 Count 99. 01:06PM

6 MR. MARTIN: And I have a problem with up to the 01:06PM
7 present, Your Honor, in that, you know, we're getting to a 01:06PM
8 point where we're starting to amend this indictment. 01:06PM

9 MS. S. MILLER: None of the documents I just 01:06PM
10 cited, Your Honor, go past the indictment date. 01:06PM

11 THE COURT: Hold on. Hold on. I think I made a 01:06PM
12 ruling that if -- if -- if the charge -- if the conspiracy is 01:06PM
13 inextricably intertwined, if the charge is inextricably 01:06PM
14 intertwined with what they're trying to prove with regard to 01:06PM
15 up to present, then that is allowed under conspiracy law. 01:06PM
16 Wouldn't you agree with that? 01:06PM

17 MR. MARTIN: I saw the ruling, Your Honor. I'm 01:06PM
18 just saying, we're going beyond that. We have received in 01:06PM
19 excess of a hundred new exhibits and we get 'em every day. 01:06PM
20 I'm sure if we haven't got 'em yet, we're going to get new 01:06PM
21 exhibits again today. But every day we get new exhibits. 01:06PM
22 This -- this -- I do know this, this is 2939, pages 81, excuse 01:06PM
23 me, 82 and 83, that's a new exhibit. We just -- 01:06PM

24 MS. S. MILLER: No, it's not. 01:07PM

25 THE COURT: Wait. Wait. Wait. One person at a 01:07PM

1 time. Okay, let him make his objection, then you guys can
2 come back. Go.

3 MR. MARTIN: Let me back up, Your Honor. It is
4 not a new exhibit. It is a summary chart we haven't agreed
5 to.

6 THE COURT: All right. Let's...see that, can I
7 just say something? That's the danger, Counsels, when you're
8 a prosecutor and you want to extend a conspiracy beyond what's
9 contained in the indictment. We're going to get these delays
10 and listen, listen to my experience. I'm telling you now.
11 Whether you take it or not, that's up to you and whether I
12 change my ruling on the up to present, that's another issue.
13 But I am concerned -- I don't -- I don't necessarily agree
14 that you're amending the indictment, but I do think you're
15 complicating your prosecution and the defense.

16 I think that that is -- you know what, when you
17 go in with a clean indictment and you're saying these are the
18 dates, these are the charges, this is wire fraud, these are
19 the -- this is the execution of the wire fraud,
20 blah-blah-blah, and we know specifically what dates, which
21 wire transfer, that's easy.

22 But when we start coming in to, okay, the
23 conspiracy is continuing even up to this moment. Okay. Well,
24 put aside that up to this moment, because I have a bar date,
25 which I said was, I should know this by heart, is January 8,

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1 2021. January 2021. And that -- you know, it's complicated
2 by the fact that this is the third indictment in this case
3 against these defendants, No. 1.

4 And No. 2, it seems like you're building evidence
5 when you may really just have a good case -- sufficient case
6 with which you have in the indictment. But I mean, I'm not
7 trying to tell you guys how to run your prosecution, but I'm
8 just warning you that these issues keep percolating. Whether
9 you take that for what it's worth and... yeah, I mean I think
10 Mr. Martin makes good points. You may not like to hear that,
11 but he's a defense Counsel. He's got to represent his client
12 to the best of his ability and I understand the prosecution
13 can be aggressive and wanting, in the best interest of the
14 United States of America, to nail whoever they want to nail on
15 the charges.

16 But oftentimes, sometimes it's better to stay
17 within the confines of what was presented to the grand jury
18 because -- because some of the stuff was not presented to the
19 grand jury. The ongoing conspiracy beyond -- I mean well, it
20 may not have been presented to the grand jury because you
21 unveiled it after that. Correct? Is that a fair statement?

22 MS. S. MILLER: Yes. Although all these
23 documents I just told Your Honor about focus on the timeframe
24 of sort of middle of 2018 to middle of 2019, which is well
25 before the second superseding indictment in January of 2021.

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1 THE COURT: But the point is, this is the third
2 indictment.

3 MS. S. MILLER: Right.

4 THE COURT: Three indictments, the defendants
5 have gone through three indictments. That's a lot.

6 MS. S. MILLER: Well, the interesting thing is,
7 these things that we're talking about right now happened
8 within the three or four months following the first
9 indictment. That's what makes them highly relevant.

10 THE COURT: Okay. And so but, but, but -- okay,
11 so -- so that's not -- that's -- that's a good point. But my
12 point is, we're going through it and you're saying that this
13 evidence has come through, you're just coming through this,
14 these guys are just receiving it. But they're really focusing
15 on what's contained within the indictment. Do you understand?
16 They're looking at specific dates. 2015, execution of wire
17 fraud, that's what they're looking at. You're saying that
18 hey, you know what, the conspiracy continued on up to
19 January 8, 2021, but the indictment says 2015 on Count 99.
20 That's what I'm saying. That's three years later. Or no, let
21 me see, '15, '16, '17, '18, '19, '20; that's six years later.
22 Think about that. Yeah.

23 MR. MARTIN: Your Honor.

24 THE COURT: Yes, Mr. Martin? Tell the jury it'll
25 be another 20 minutes.

1 MR. MARTIN: I have in my hand -- 01:11PM

2 THE COURT: They could take their smoke break. 01:11PM

3 Yes? 01:11PM

4 MR. MARTIN: I have in my hand what was filed 01:11PM

5 this morning by the government, ECF 1595, filed, excuse me 01:11PM

6 yesterday, June 7, 2022, is the *United States' Fourth Amended* 01:11PM

7 *Exhibit List*. It is 96 pages long. It has more new exhibits 01:11PM

8 on it. And two of the exhibits that they've asked you to rely 01:11PM

9 on are outside the exhibit list. Their exhibit went to 2,940 01:11PM

10 and we're now at 2,000 -- excuse me, 3,051, Exhibits 3003, 01:11PM

11 pages 32 and 36 -- through 36, and Exhibit 3020 are both 01:11PM

12 beyond the Court's order for them to turn over exhibits to us 01:12PM

13 and it continues to happen every day. And this is -- I 01:12PM

14 mean... 01:12PM

15 THE COURT: Okay, you know what? 01:12PM

16 MR. MARTIN: We're not getting notice of what 01:12PM

17 we're defending against when they drop documents, and big 01:12PM

18 documents, on us every day. 01:12PM

19 THE COURT: Good point, if what you're saying is 01:12PM

20 true, that's a good point. That's a good point. 01:12PM

21 MR. MARTIN: Well, here's what I got yesterday. 01:12PM

22 MS. MCCONWELL: Hansen joins. 01:12PM

23 THE COURT: Uh-huh. You tell them they could 01:12PM

24 take -- 01:12PM

25 MR. MARTIN: These are Guzzetti exhibits that we 01:12PM

1 got couple days ago. I mean, and I get something like this
2 every night, Judge.

3 MS. S. MILLER: May I respond?

4 THE COURT: Yeah, Hansen joins?

5 MS. MCCONWELL: Yeah, Hansen joins.

6 THE COURT: What's that?

7 MS. MCCONWELL: These are some of the documents
8 that they have given us that are new that were not on the
9 prior exhibits.

10 THE COURT: So how much inches of documents is
11 that?

12 MS. MCCONWELL: Well, I would say at least -- I
13 would say when I put the rest of these in, it's at least six,
14 maybe seven.

15 MR. MARTIN: Doesn't go to the space station.

16 MS. MCCONWELL: Doesn't go to the space station.

17 THE COURT: Obviously. Obviously it's not
18 terabytes, Mr. Martin. (Laughing.) I don't even know what
19 terabytes is. All right. Yeah. Is that true? Wait. Wait.
20 Let me ask, before you respond.

21 MS. S. MILLER: Sure.

22 THE COURT: Is it true that the prosecution is
23 dropping exhibits to the defense Counsels daily or almost
24 daily new exhibits?

25 MS. S. MILLER: I don't think it's daily. I

1 would say we've given them a small number compared to the
2 entire exhibit list of new exhibits. But Your Honor,
3 unfortunately --

4 THE COURT: No, no, no, strike that. Let's go to
5 another question.

6 MS. S. MILLER: No, it's not daily.

7 THE COURT: Okay, forget the daily. Since this
8 trial started 20 -- how many days ago, Carmen? Trial dates,
9 right? Since the trial started 27 trial days ago, has the
10 prosecution been dropping Exhibits to the defense, new exhibit
11 -- a new exhibit list containing new exhibits?

12 MS. S. MILLER: Yes.

13 THE COURT: And how many of those trial dates
14 have you been doing that, would you say? Honestly?
15 Approximately?

16 MS. S. MILLER: Maybe ten times?

17 THE COURT: That's a lot. Okay. So was it one
18 page?

19 MS. S. MILLER: No.

20 THE COURT: On the average, how many pages?

21 MS. S. MILLER: Some were one page, some were
22 longer.

23 THE COURT: Like how many much equals longer?

24 MS. S. MILLER: You know, I don't think there are
25 any over a hundred pages.

1 THE COURT: A hundred pages? I'll tell you this, 01:14PM
2 if I was the defense Counsel, I would say that's not fair. In 01:14PM
3 the middle of trial, in the middle of -- not in the middle of 01:14PM
4 trial, we are now at end of the trial with big -- big 01:14PM
5 witnesses testifying, experts and so forth. And these guys 01:14PM
6 are getting exhibits dropped on them 10 out of 27 days? Some 01:14PM
7 of them could be as high as a hundred pages? That's not good. 01:14PM

8 MS. M. MILLER: Your Honor, to be fair. 01:15PM

9 MS. S. MILLER: Let me respond, please. 01:15PM

10 THE COURT: Yeah. Ms. Marie Miller. 01:15PM

11 MS. M. MILLER: Yes? 01:15PM

12 THE COURT: She could do it. 01:15PM

13 MS. S. MILLER: Maybe. 01:15PM

14 THE COURT: I know -- I know that you are the 01:15PM
15 lead Counsel but -- let your co-Counsels fly. Go. 01:15PM

16 MS. S. MILLER: My response, Your Honor, is that 01:15PM
17 I have been a part of this because I'm on the team of the 01:15PM
18 folks who are sitting here in Guam, that the second we heard 01:15PM
19 when we came back from our six-week hiatus -- so before that, 01:15PM
20 remember we initially had -- 01:15PM

21 THE COURT: Just answer the question. 01:15PM

22 MS. S. MILLER: So we started hearing a 01:15PM
23 completely -- two different defenses that we never heard 01:15PM
24 before. One was, they're going to blame it all on Crowe 01:15PM
25 because he got severed. 01:15PM

1 The second was that Mr. Walker stepped away from 01:15PM
2 the business. So we have been scrambling to put -- that's not 01:15PM
3 -- that was not our focus up until now. But because they 01:15PM
4 raised that the second we got back here, we've been scrambling 01:15PM
5 to put together documents specifically to refute that because 01:15PM
6 we weren't focused on that before. 01:15PM

7 THE COURT: So you're saying all the documents 01:15PM
8 out of the 10 to 27 days, those documents are there to be 01:15PM
9 refutation of what you believe is the defense Counsel's 01:16PM
10 defense? 01:16PM

11 MS. S. MILLER: 100%. 01:16PM

12 THE COURT: Well, I don't think it's 100% because 01:16PM
13 you are saying in this particular matter right now as we 01:16PM
14 speak, these exhibits that you've just dropped to these 01:16PM
15 defense Counsels and to the Court, that this is part of the 01:16PM
16 ongoing conspiracy, that's what you're saying. 01:16PM

17 MS. S. MILLER: Well, right and that it continues 01:16PM
18 till today. 01:16PM

19 THE COURT: Right. So that is part of the 01:16PM
20 indictment. 01:16PM

21 MS. S. MILLER: Right, but this shows -- I mean 01:16PM
22 these documents all show that Crowe and Walker together were 01:16PM
23 heavily involved, holding hands, marching to the Philippines 01:16PM
24 and doing -- moving their operations there. So we're showing 01:16PM
25 two things; that Crowe wasn't the only man at the hour to 01:16PM

1 defeat that defense, and two, that Mr. Walker also was heavily
2 involved after 2011. That was the year they cited. So these
3 are in 2018 showing Mr. Crowe and Mr. Walker --

4 THE COURT: Wait, wait, wait. Okay, but first of
5 all, Crowe is not on trial. But --

6 MS. S. MILLER: But they're blaming him. That's
7 their defense.

8 THE COURT: Is it?

9 MS. S. MILLER: Yes.

10 THE COURT: I think their defense is a lot of
11 things.

12 MS. S. MILLER: Well, that's one of them.

13 THE COURT: I think their defense is a lot of
14 things. That you may think that. I don't know what they're
15 going to argue, but you're using this, though, to show --
16 let's focus, as an example, demonstrative exhibit that this
17 particular exhibits that you have just given me and the
18 defense Counsel, you're saying that this is part of your
19 burden of proof for the conspiracy? That's what you've just
20 told us.

21 MS. S. MILLER: Yes.

22 THE COURT: Not for refutation, but for really as
23 a proof of conspiracy, your burden of proof.

24 MS. S. MILLER: Well, that's at the same time.

25 THE COURT: No, but that's not what you said when

1 you made your proffer. Your proffer was, this is part of our 01:17PM
2 proof for Count 99. Now, if that's true -- 01:17PM

3 MS. S. MILLER: To show their relationship, yes. 01:17PM

4 THE COURT: No, you don't get it. You're not 01:17PM
5 listening to me. I don't know. Some attorneys just don't 01:17PM
6 listen to the judge. 01:17PM

7 My point is, Ms. Miller, what I'm telling you is 01:17PM
8 that if this is part of your Count 99 burden of proof, then 01:18PM
9 this should have been given to them way before today. That's 01:18PM
10 my point. If it's part of a refutation only, that Walker was 01:18PM
11 not around and so forth, that's a little different story. 01:18PM

12 Ut the fact is, if the evidence truly is, and you 01:18PM
13 guys really better think about this, if the evidence is truly 01:18PM
14 is that out of the 27 trial days, that close to half of those 01:18PM
15 days these defense Counsels, these defendants, have been 01:18PM
16 receiving new exhibits for purposes of your conspiracy theory 01:18PM
17 under the indictment, that is a no-no. And I could exclude 01:18PM
18 all of that right now and say that you can't even prove 01:18PM
19 anything up to January 8, 20 -- 2021. So that's concerning. 01:18PM

20 MS. S. MILLER: I say this with the most respect 01:18PM
21 for Your Honor, but I don't think you can prove a count 01:18PM
22 without disproving a defense at the same time. So it's our 01:19PM
23 burden of proof, but it's also our burden to disprove their 01:19PM
24 theory. 01:19PM

25 THE COURT: You can prove. But that's okay. But 01:19PM

1 the problem is you can't -- you can't come into Court -- that 01:19PM
2 could be on rebuttal. Save it for rebuttal. But you're 01:19PM
3 trying to do this in your case in chief and you're trying to 01:19PM
4 put it under the guise of proving it as part of your burden of 01:19PM
5 proof for your case in chief. That's what's happening. 01:19PM

6 There is one thing to say a burden of proof and 01:19PM
7 there is another thing to say I'm going to rebut the defense. 01:19PM
8 Because if it was a rebuttal of a defense, you don't even have 01:19PM
9 to give them, you do not have to give the defense Counsel 01:19PM
10 notice. 01:19PM

11 MS. S. MILLER: Well, that has been our -- what 01:19PM
12 we said to Your Honor this entire time when we brought in new 01:19PM
13 documents is that we're rebutting the defense that they've 01:19PM
14 raised through cross-examination. 01:19PM

15 THE COURT: Yeah, but that's not what you're 01:19PM
16 doing with this. I'm talking about case in point. This 01:19PM
17 particular proffer is for your case in chief. You've just 01:19PM
18 argued that. "Judge, I need this evidence for Count 99 01:19PM
19 because I have to prove it beyond a reasonable doubt." Did 01:20PM
20 you not say that? 01:20PM

21 MS. S. MILLER: Right. But my opinion, Your 01:20PM
22 Honor, is that proving it beyond a reasonable doubt is also 01:20PM
23 disproving what they're trying to do otherwise. So it does 01:20PM
24 both things; it shows the relationship between these 01:20PM
25 defendants and it disproves that Crowe is the only one running 01:20PM

1 the show.

2 THE COURT: Okay. Good point. But the problem
3 is that your proof, if you're going to prove it beyond a
4 reasonable doubt, these defendants, any defendant that comes
5 into my Court, they have the right to have notice of what
6 they're defending against.

7 Now if they bring up a defense in the middle of
8 trial and you want to refute that, that's one thing. You can
9 impeach them and so forth. You can even have a rebuttal and
10 rebut that in your case in chief. You could do that.

11 MS. S. MILLER: And I think that's what we're
12 trying to do.

13 THE COURT: No, no, you're not. You're trying to
14 integrate it within the burden of proof that you have and
15 you're saying that. Now you're your theory -- your proffer
16 changes.

17 MS. M. MILLER: Your Honor, I want to remind
18 everyone, we're talking about Exhibit 761, which was on our
19 original exhibit list, which is Mr. Crowe's affidavit. We
20 have had it on our list the entire time.

21 MS. S. MILLER: And it's been admitted.

22 MS. M. MILLER: Ms. Miller is not -- she's
23 arguing to Your Honor why that particular affidavit is
24 relevant and using additional evidence to show why that's
25 relevant.

1 THE COURT: Listen, you guys -- no, you don't 01:21PM
2 have to tell me that. I know that. But she's dropping out -- 01:21PM
3 she's dropping in Exhibit 3003, 3020, 2939 and those pages to 01:21PM
4 show that this is relevant to her burden of proving Count 99. 01:21PM
5 Why wasn't this provided to the defense a long time ago? 01:21PM

6 MS. M. MILLER: First of all, 3003 is rebuttal. 01:21PM
7 Secondly, we don't need it to use 761, which was already 01:21PM
8 produced to the defense. We went down this rabbit hole 01:21PM
9 because of arguing in response to the defense why Mr. Crowe's 01:21PM
10 affidavit was in fact a co-conspirator statement. Your Honor 01:21PM
11 had already admitted it as a co-conspirator statement against 01:21PM
12 Hansen. 01:22PM

13 THE COURT: Okay. That's true. So even if I 01:22PM
14 admitted a co-conspirator statement, the way in which she's 01:22PM
15 presenting this now, is this -- this is a declaration, put 01:22PM
16 aside the co-conspirator, why do you even need this, okay. 01:22PM
17 But put aside, because you guys want to be cumulative. I do 01:22PM
18 think is a cumulative issue, too. But putting that aside, 01:22PM
19 this is your theory. 01:22PM

20 You guys are putting in a declaration used in a 01:22PM
21 bail hearing in a modification of pretrial release. And 01:22PM
22 you're trying to say that, hey, you know what, Crowe got to go 01:22PM
23 to the Philippines and he was conducting business. And that 01:22PM
24 is part of our burden of proof of Count 99. I mean, I don't 01:22PM
25 know, I'm not going to repeat myself. I already know what I 01:22PM

1 think. I know this. I mean you guys, remember, I'm a former
2 prosecutor. I totally understand bail --

3 MS. M. MILLER: No, I think --

4 THE COURT: -- bail and stuff.

5 MS. M. MILLER: I think we should just move on at
6 this point, Your Honor. We'll withdraw.

7 THE COURT: Can I tell you something?

8 MS. M. MILLER: Yes.

9 THE COURT: Let me just say something.

10 MS. M. MILLER: Yes, Your Honor.

11 THE COURT: I think you should regroup here. And
12 I say this in all sincerity because we are looking at a case
13 where -- and we're looking at a very serious case, both for
14 the United States and for the defense. You guys are...
15 everybody, okay, sometimes there is a lot of unnecessary
16 arguments and proffers and -- that I believe are being made
17 here. You guys have less than a hundred -- let's say a
18 100-count indictment. We've thrown out some of the stuff, but
19 not a lot, or removed it. All right.

20 So you got -- have this big indictment that you
21 have filed with the grand jury and the -- I'm sorry, the grand
22 jury has returned against Mr. Walker only, right now, and
23 Hansen Helicopters.

24 It just keeps -- if you keep it simple and just
25 focus on the indictment, it's so much easier. But I do

Direct - Khamvongsa

1 believe and I'm warning you and I may even change my mind on 01:23PM
2 something with regard to this inextricably intertwined because 01:23PM
3 it's getting too complicated. You guys are spinning your 01:24PM
4 wheels, we're wasting jury time. These jurors want to be -- 01:24PM
5 these jurors have been very dedicated. And you know that. 01:24PM
6 They even said, Judge, we'll stay late and they've stayed late 01:24PM
7 every night last week or so. And they're even going to come 01:24PM
8 in Saturdays. They've been coming on Saturday. 01:24PM

9 But you might really need to consider, do you 01:24PM
10 real need to go down the line of ongoing conspiracy? I really 01:24PM
11 think you better regroup. So I'm going to it to take a 01:24PM
12 15-minute recess and maybe you should think about it. I know 01:24PM
13 that you might think that I'm interfering and I'm trying -- 01:24PM
14 I'm not interfering. I'm talking about case management. I'm 01:24PM
15 just telling you that I believe as your trial judge, that 01:24PM
16 there is a lot of unnecessary arguing and a lot of expended 01:24PM
17 time that you don't need. 01:24PM

18 Assuming you believe you have a strong case, 01:24PM
19 which I think you do have a strong case, but I also think that 01:25PM
20 there is a strong defense, too. You know you've got very good 01:25PM
21 defense lawyers here, got good prosecution here. Why are you 01:25PM
22 making it more complicated than you should. So maybe you 01:25PM
23 should regroup. 15 minutes. I'll see you in 15 minutes. 01:25PM

24 MS. S. MILLER: Thank you, Your Honor. 01:25PM

25 (Recess taken at 1:25 p.m.) 01:25PM

Direct - Khamvongsa

1 (Back on the record at 1:41 p.m.)

01:41PM

2 THE COURT: Okay. We're back on the record. All
3 Counsels present, defendants present. Let me just make a
4 comment here. All right. So let me just say, the
5 inextricably intertwined is only an issue if it's -- if it's
6 from the date of the indictment, I just want to make sure I
7 got this because I don't want to mix this up here.

01:42PM

01:42PM

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01:42PM

8 So the date of the second superseding indictment
9 is...where is my second superseding indictment. Okay,

01:42PM

01:42PM

10 January 8, 2021. Okay, so hold on. Second superseding

01:42PM

11 indictment. Give me a second, please. All right. So let me
12 just get this clear. So Count 99 reads from on or about

01:42PM

01:42PM

13 January 2000 and continuing to present, the Court has made a
14 decision dated March 4, 2022, regarding evidence of an ongoing
15 criminal conspiracy and gave a bar date of January 8, 2021.

01:43PM

01:43PM

01:43PM

16 Okay. And so when we look at count -- let's just
17 focus on Count 99, it's the Count 99 element of date is from
18 on or about January 2000 and then continuing to present would
19 be January 2000 to January 8, 2021.

01:43PM

01:43PM

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20 Mr. Walker[sic] points out to the Court that

01:43PM

21 Counts 100 to 104 specifically dealing with the conspiracy to
22 commit wire fraud dates -- is dated September 4, 2015,

01:43PM

01:43PM

23 December 1, 2015, December 17, 2015, September 2, 2016,

01:44PM

24 October 3, 2016, okay. So those are very specific dates.

01:44PM

25 Now, anything -- and what we were talking about

01:44PM

Direct - Khamvongsa

1 was anything that occurred between 2000 to January 8th -- and
2 in this case, as it relates to Mr. Crowe, it would have been
3 the date that he went to the Philippines and then first date
4 that he goes is November 17, 2018, the timeframe to January 8,
5 2021. That's really the focus.

6 But -- this is not inextricably intertwined
7 because inextricably intertwined -- yeah, it is, it is up to
8 that date. So from the date of the 2015 date, that's
9 contained in the indictment to -- and 2016 dates from Count 11
10 to 104 up to 2021, that timeframe focuses on the inextricably
11 intertwined time.

12 And my concern is, is that, really, is just by
13 listening to every single day or every other day or however
14 you want to say it, when the defense Counsel comes in and
15 says, Judge, we just got new exhibits in, we didn't have
16 notice of it, and I say well do you -- you want to go review
17 it. And so you know, they go review it and so forth, but I'm
18 concerned that in terms of notice, if the defense Counsels are
19 receiving evidence, and it's true, I already -- I already know
20 the law about overt acts and so forth, those things -- those
21 -- and objects of a conspiracy, all of that information, that
22 evidence can come in to show an ongoing conspiracy. That -- I
23 was in agreement with the prosecution on that. And that's why
24 I said that I would allow evidence up to a bar date of
25 January 8, 2021.

Direct - Khamvongsa

1 My concern is, now that we're in the trial, and 01:46PM
2 as Mr. Martin points out on behalf of his client, Mr. Walker, 01:46PM
3 on counts -- I'm sorry, 100 through 104, they have notice of 01:46PM
4 all those events that occurred during that timeframe, 2015, 01:46PM
5 2015, 2015 -- okay, they've got notice of that and so they're 01:46PM
6 able to properly defend. 01:46PM

7 But if they're getting evidence or exhibits to 01:46PM
8 have to defend outside of those dates, between the 2015, '16 01:46PM
9 date up to the bar date, and in this case, it's just that 01:46PM
10 little timeframe that I've already talked about as it relates 01:46PM
11 to Crowe, which would be 2018 to 2021, if -- and if they're 01:46PM
12 still receiving evidence, it's really delaying the trial now. 01:47PM
13 And it's really not giving them sufficient notice. 01:47PM

14 And so for me, as a judge now trying to monitor 01:47PM
15 this case, if they haven't received this evidence but they're 01:47PM
16 receiving it during the course of the trial, we're not playing 01:47PM
17 a fair game here. It's not -- we're not -- it's just not 01:47PM
18 being fair. This is causing a delay. 01:47PM

19 So I say that to you because I went back and 01:47PM
20 looked at my notes here and I just want to be clear on that 01:47PM
21 and I don't know if you guys -- I mean, how you want to 01:47PM
22 proceed with this. 01:47PM

23 MS. S. MILLER: Your Honor, we're not planning on 01:47PM
24 using any more exhibits with this witness that were not in the 01:47PM
25 -- we're not in the first, second or third amended exhibit 01:47PM

1 list. So none of the new ones.

01:47PM

2 THE COURT: Did you hear that?

01:47PM

3 MR. MARTIN: I couldn't hear what she said, Your
4 Honor.

01:47PM

01:48PM

5 THE COURT: Repeat that.

01:48PM

6 MS. S. MILLER: Sure. Maybe this isn't close
7 enough to my mouth. We're not planning on using any of the
8 new exhibits that defense Counsel has received since we've
9 been in Guam, round two.

01:48PM

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01:48PM

10 MR. MARTIN: Since -- so the record is straight,
11 that would be anything before Exhibit No. 2940? After 2940.

01:48PM

01:48PM

12 MS. MCCONWELL: 2955.

01:48PM

13 MR. MARTIN: 2955?

01:48PM

14 MS. S. MILLER: Yes.

01:48PM

15 MS. MCCONWELL: Well, and Your Honor, I would
16 also --

01:48PM

01:48PM

17 THE COURT: Okay, hold on.

01:48PM

18 MS. M. MILLER: Wait, one sec. One sec. There
19 is physical evidence that was marked, Your Honor, at trial
20 that was identified on our third amended exhibit list and
21 second amended exhibit list, but hadn't been marked until we
22 were here. So those numbers are going to be later than that.
23 But those exhibits are already in and those exhibits were
24 identified before, so I want to be really clear.

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25 MR. MARTIN: I'm not objecting to anything that's

01:48PM

Direct - Khamvongsa

1 already in.

01:48PM

2 MS. S. MILLER: Right, and I should have been
3 careful. Nothing that hasn't already been admitted, we're not
4 going to seek to admit any documents that were not numbered
5 2955 or lower in terms of government exhibit numbers.

01:48PM

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01:49PM

6 THE COURT: Or higher? Higher.

01:49PM

7 MS. M. MILLER: Higher.

01:49PM

8 MS. S. MILLER: That were not below that number
9 or, yes, higher.

01:49PM

01:49PM

10 MS. MCCONWELL: And, Your Honor, I want to have
11 it be that it's the government's third -- third amended
12 exhibit list, which was the one that we've come into trial
13 with. They had other iterations of it. They removed a number
14 of exhibits and it's also not fair game for those exhibits to
15 be coming back because that's what has been happening, they
16 decide they want to use some exhibit that they'd already
17 removed from their exhibit list, which we didn't think would
18 be on -- was not on the exhibit list. And we want those also
19 to not -- to be excluded. That's not fair game, either.

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20 MS. M. MILLER: So two things, Your Honor.

01:49PM

21 THE COURT: Hold on. Hold on. Just wait. I
22 just got to understand her objection. So are you saying,
23 okay, so how many -- first of all, how many exhibit lists have
24 been brought in? Remind me.

01:49PM

01:49PM

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01:49PM

25 MS. MCCONWELL: Well, now a fourth one was filed

01:50PM

1 that we got a copy of it today.

01:50PM

2 THE COURT: So today you got a fourth amended
3 exhibit list?

01:50PM

01:50PM

4 MS. MCCONWELL: I got a fourth amended exhibit
5 list.

01:50PM

01:50PM

6 THE COURT: So they said now they're going to
7 drop the fourth amended exhibit list.

01:50PM

01:50PM

8 MS. MCCONWELL: Well, the thing with the fourth
9 exhibit list in addition to new exhibits that we haven't seen
10 and they haven't offered yet, I think it also includes some of
11 the ones that they -- above 2955. Some of those are in but --

01:50PM

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12 THE COURT: Let me understand what you have. You
13 have received four amended exhibit lists. The prosecution is
14 saying, with regard to the fourth witness list -- I mean
15 exhibit list, it's out, don't worry about it; correct?

01:50PM

01:50PM

01:50PM

01:50PM

16 MS. M. MILLER: Right.

01:50PM

17 THE COURT: That's all I care about.

01:50PM

18 MS. MCCONWELL: She said for this witness.

01:50PM

19 THE COURT: Well, for the trial.

01:50PM

20 MS. M. MILLER: Yes, except for what's come in
21 rebuttal, Your Honor. Now we're not waiving any rebuttal that
22 we've already brought in and we're not waiving any right to
23 bring in additional rebuttal if they keep arguing that Jon
24 Walker retired.

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25 THE COURT: Of course not. Of course you're not

01:50PM

1 going to waive rebuttal.

01:50PM

2 MS. M. MILLER: Right. Right. No.

01:50PM

3 THE COURT: All I care about -- listen. Okay,
4 that I said how many exhibit lists, amended exhibit lists has
5 the prosecution brought in. Four. You said delete No. 4, we
6 won't even consider it.

01:51PM

01:51PM

01:51PM

01:51PM

7 MS. M. MILLER: Yes.

01:51PM

8 THE COURT: 1, 2, and 3. Let's just talk about
9 that. Is there a problem with those? And if so, say it now.

01:51PM

01:51PM

10 MS. MCCONWELL: Yes. And what I've objected to
11 is that -- their Exhibit 2 and 3 are substantially similar. I
12 think they contain the same exhibits, but they dropped off,
13 they took out and removed a number of exhibits off of that
14 list and then they also substituted some other stuff. But I
15 mean, if they're going to stick to the third amended exhibit
16 list, that's fine, but they have been trying to bring in other
17 exhibits that they removed from the third exhibit list that,
18 you know, I didn't -- I don't have copies of because that's
19 the exhibit list that I've been going with.

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20 THE COURT: So would you agree, though, okay, so
21 as it relates to the first, second and third amended exhibit
22 list, you're not objecting to that, that's already -- that's
23 already passed?

01:51PM

01:51PM

01:52PM

01:52PM

24 MS. MCCONWELL: Yeah. I'm not objecting to the
25 third one. What I'm objecting to is, if they pull things off

01:52PM

01:52PM

1 of the first list that were removed and not on contained on
2 the third list.

3 THE COURT: Okay. Well, that's a whole different
4 story. So you want to be able to rely on the third amended
5 exhibit list? That's what you're saying?

6 MS. MCCONWELL: Correct. Yes, ma'am.

7 THE COURT: And that's it. And if anything was
8 removed earlier, it's removed. Now, to the extent that
9 they --

10 MS. MCCONWELL: That's correct.

11 THE COURT: -- have rebuttal evidence, obviously
12 they can come forward on the rebuttal evidence and at least
13 try to bring it in.

14 MS. MCCONWELL: Well, the rebuttal -- well, yeah,
15 the rebuttal case and then the only rebuttal that was my
16 understanding that Your Honor was allowing during this trial
17 was related to their concern about Jon Walker after 2011.

18 THE COURT: Well, it related to the issue of
19 refuting whether he was in retirement or if he was slowing
20 down his involvement. Whatever you want to call it.

21 MS. MCCONWELL: Right. And that was it.

22 THE COURT: That was it because a lot of that was
23 because you have witnesses that are off island and you wanted
24 to be efficient, I thought. That was really the whole goal,
25 right?

1 MS. MCCONWELL: That was -- I think so. 01:53PM

2 THE COURT: Well, at least that was my thought 01:53PM
3 process. All right. So does everybody agree with that then? 01:53PM

4 MS. S. MILLER: The only caveats to that, Your 01:53PM
5 Honor, about the third amended exhibit list are, one, we 01:53PM
6 reserve the right to use any of the underlying documents for 01:53PM
7 the summary charts that have already been introduced and any 01:53PM
8 that we will -- that were part of our third amended exhibit 01:53PM
9 list and we haven't introduced yet because I think we have two 01:53PM
10 or three more. 01:53PM

11 THE COURT: Let's just put this way, I'm not 01:53PM
12 going to make any rulings on that. We could get to that. If 01:53PM
13 there is a summary chart that has already been admitted or 01:53PM
14 stipulated by stipulation or by court order, and obviously 01:53PM
15 there is underlying documents that have supported it, both 01:53PM
16 sides have had an opportunity, defense have had an opportunity 01:53PM
17 to object; if they fail to object, I just say okay, it comes 01:54PM
18 in because case law allows all that. Okay. Don't worry about 01:54PM
19 it. 01:54PM

20 My point is, let's just wait and see what 01:54PM
21 happens. If you try to bring it in, and you say they have 01:54PM
22 notice of it, it was like exactly like what we just said. 01:54PM
23 Okay. So I may let it in. I may not let it in on another 01:54PM
24 basis, irrelevant, 403, okay, whatever. But you can try to 01:54PM
25 bring it in. Any other caveats that you want to propose? 01:54PM

1 MS. S. MILLER: I think there were just a couple 01:54PM
2 of accidents with the -- between removal of exhibits from one 01:54PM
3 of the early exhibit lists to the third that were with respect 01:54PM
4 to the depositions and I believe Your Honor ruled on those 01:54PM
5 within the transcripts anyway. So if there was one or more of 01:54PM
6 those in the Cann deposition, we would just ask should be 01:54PM
7 allowed to use an exhibit that we accidentally took off the 01:54PM
8 third list. 01:54PM

9 THE COURT: Okay. So let's cross that bridge 01:54PM
10 when we have to. 01:54PM

11 MS. S. MILLER: I think you already probably 01:54PM
12 ruled -- I haven't looked at it yet, but you made those 01:54PM
13 rulings. 01:54PM

14 THE COURT: But if I didn't, let's just cross -- 01:54PM

15 MS. S. MILLER: Okay, yes, Your Honor. Thank 01:54PM
16 you. That's it. 01:54PM

17 THE COURT: Is that it? Okay, are we all like on 01:54PM
18 the same page now? 01:54PM

19 MS. S. MILLER: Yes. 01:54PM

20 THE COURT: Okay. But I will say, though, that 01:54PM
21 prosecution, you are not allowed to drop off new -- let's put 01:55PM
22 it -- well, be careful when you send over new discovery over 01:55PM
23 to defense Counsel. Reason why new discovery is given to 01:55PM
24 prosecutors or defense, depending on who gives it, is usually 01:55PM
25 is because they just found out that information 30 seconds ago 01:55PM

1 or one minute ago, not five years when they should have given
2 to the other side. This is all about notice. This is about
3 no surprises, this is not a shotgun case. And we could make
4 it orderly.

5 Okay. Are we all on the same page? These are
6 the rules of engagement, again. Okay. Mr. Martin, you're
7 good?

8 MR. MARTIN: I'm good, Your Honor.

9 THE COURT: Ms. McConwell?

10 MS. MCCONWELL: I believe so, Your Honor.

11 THE COURT: And Mr. McConwell?

12 MR. MCCONWELL: Yes, Your Honor.

13 THE COURT: And Ms. Marie Miller?

14 MS. M. MILLER: Yes, Your Honor.

15 THE COURT: Ms. Samantha Miller?

16 MS. S. MILLER: Yes, Your Honor.

17 THE COURT: Mr. Leon Guerrero.

18 MR. LEON GUERRERO: Yes, Your Honor.

19 THE COURT: Call in the jury. Are they ready?

20 MS. MCCONWELL: And Mr. Han is, too.

21 THE COURT: Oh, Mr. Han. You're going to hate
22 me, Mr. Han, please, I'll give you a hug. I'm sorry. It's
23 because you're behind the podium, I can't see you.

24 MR. HAN: It's okay, Your Honor.

25 THE COURT: Just hiding away. Sorry, Mr. Han.

Direct - Khamvongsa

1 That's not intentional, you know. 01:56PM

2 MR. HAN: I know. 01:56PM

3 THE COURT: Yeah. Okay. No, but I have 01:56PM

4 forgotten you other times so I don't mean to because you're 01:56PM

5 like tucked away hidden over there. 01:56PM

6 MS. S. MILLER: Probably had a good nap in there. 01:56PM

7 Huh? 01:56PM

8 THE COURT: Did he? 01:56PM

9 MS. S. MILLER: We won't ask him. 01:57PM

10 THE COURT: Yeah don't. He might be embarrassed. 01:57PM

11 (Witness returned to witness stand.) 01:57PM

12 THE COURT: How much longer do you have with this 01:57PM

13 witness, Counsel? 01:57PM

14 MS. S. MILLER: Maybe 45 minutes hopefully. 01:57PM

15 Maybe less. He speaks fast. Just like me. 01:57PM

16 THE COURT: He's very -- 01:57PM

17 MS. S. MILLER: Animated. 01:57PM

18 THE COURT: Radio voice. You could probably be 01:57PM

19 hired by Disney and so forth. 01:58PM

20 THE WITNESS: You're too kind. 01:58PM

21 THE COURT: They actually have people that are -- 01:58PM

22 you know paid to be a voiceover on, like, cartoons. You know 01:58PM

23 that. 01:58PM

24 THE WITNESS: My brother is a much better voice 01:58PM

25 actor than I am. 01:58PM

Direct - Khamvongsa

1 THE COURT: Oh, is he a voice actor? 01:58PM

2 THE WITNESS: He was trying for that. 01:58PM

3 THE COURT: Did he make it? 01:58PM

4 THE WITNESS: No, he's still working on it. 01:58PM

5 THE COURT: He's got to work on his voice? 01:58PM

6 THE WITNESS: Yes. 01:58PM

7 MS. S. MILLER: Who did you say that was? 01:58PM

8 THE WITNESS: My brother. 01:58PM

9 MS. S. MILLER: Oh, really? 01:58PM

10 (Pause.) 01:58PM

11 (Jury in at 1:58 p.m.) 01:58PM

12 THE COURT: Please be seated, ladies and 01:59PM

13 gentlemen. Thank you. Apologize for that long delay but we 01:59PM

14 did have to take care of a few legal matters and I think we're 01:59PM

15 done with that. So go ahead, you may proceed. 01:59PM

16 MS. S. MILLER: Thank you, Your Honor. 01:59PM

17 BY MS. S. MILLER: (CONTINUING) 01:59PM

18 Q. Good afternoon, Special Agent Khamvongsa. 01:59PM

19 A. Good afternoon. 01:59PM

20 MS. S. MILLER: Good afternoon, ladies and 01:59PM

21 gentlemen of the jury. 01:59PM

22 THE JURY: Good afternoon. 01:59PM

23 BY MS. S. MILLER: (CONTINUING) 01:59PM

24 Q. Special Agent Khamvongsa, I'd like to talk to you a 01:59PM

25 little specifically about the types of seized evidence you 01:59PM

Direct - Khamvongsa

1 reviewed for your analysis.

01:59PM

2 Could you tell the juries the types of seized
3 evidence you reviewed, please?

01:59PM

01:59PM

4 A. Yes. I reviewed the e-mails, I reviewed the pilot
5 mechanic list, which was seized from the search warrant
6 evidence. I reviewed contracts. That's most of it.

01:59PM

01:59PM

01:59PM

7 Q. When you say "contracts," do you mean what we already
8 been calling throughout this trial as "leases"?

02:00PM

02:00PM

9 A. Yes, lease agreements.

02:00PM

10 Q. I'd like to show you what's been previously marked
11 and admitted into evidence as Exhibit 1248, please.

02:00PM

02:00PM

12 Special Agent Khamvongsa, do you recognize this
13 document?

02:00PM

02:00PM

14 A. Yes.

02:00PM

15 Q. Did you use this document, which is a summary chart
16 in your analysis in this case?

02:00PM

02:00PM

17 A. Yes.

02:00PM

18 Q. How did you use it?

02:00PM

19 A. I used it to -- well, going back, I looked at the
20 bank records, to -- from the bank records I saw payments being
21 made by the tuna boat companies. From there, I identified the
22 helicopters assigned to those tuna boats as well as the pilot
23 and mechanics assigned to the helicopters. So I used this to
24 verify whether or not those mechanics were FAA certified.

02:00PM

02:00PM

02:00PM

02:01PM

02:01PM

02:01PM

25 Q. Thank you. You went a little quick there so can we

02:01PM

Direct - Khamvongsa

1 take a step back. Can you go piece by piece, so what you went
2 through. So first, you did what?

3 A. First, I --

4 Q. Bank records?

5 A. Right. Correct. First, I reviewed the bank records.

6 Q. And what were you looking for in the bank records?

7 A. The bank records show wire transfers from the tuna
8 boat companies for leasing the helicopters.

9 Q. Then what did you do?

10 A. There, I identified the -- from the helicopters, I
11 looked at the Hansen Helicopters records to identify who the
12 pilot and mechanics were assigned to the specific helicopter.

13 Q. How did you connect the tuna boat company information
14 and the bank records to the helicopters?

15 A. There is an aircraft vessel assignment in which I
16 reviewed that helped identify which vessels the helicopters
17 were assigned to.

18 Q. And then could you tell what the next step was again,
19 what was the next step in your process?

20 A. Once I identified which helicopters were assigned to
21 a particular vessel or tuna boat, I then identified whether --
22 who the pilot and mechanic were for that helicopter.

23 Q. And what documents did you use to do that analysis?

24 A. I used a -- I used the pilot mechanic listing that
25 was seized from the search warrant, or that was provided from

Direct - Khamvongsa

1 the FBI as a result of the search warrant.

02:02PM

2 Q. And how did you use that -- I'm sorry, I'm really
3 loud, how did you use that information in combination with, if
4 you did, this search warrant that's in front of the jury?

02:02PM

02:02PM

02:02PM

5 A. I used that chart to identify whether or not the
6 mechanic was FAA certified.

02:02PM

02:02PM

7 Q. Now, the pilot and mechanic listing that you
8 mentioned, did you create a summary chart of that information?

02:03PM

02:03PM

9 A. Yes.

02:03PM

10 Q. I'd like to show you what's been previously
11 identified but not yet admitted as Government's Exhibit 1254.
12 Do you recognize this document?

02:03PM

02:03PM

02:03PM

13 A. Yes.

02:03PM

14 Q. What is it?

02:03PM

15 A. It is a summary of the search warrant evidence that I
16 reviewed. I reviewed over 30 files from the search warrant
17 and this is a summary of that information, as well as
18 information provided as a result of a grand jury subpoena.

02:03PM

02:03PM

02:03PM

02:03PM

19 Q. Thank you.

02:03PM

20 MS. S. MILLER: Your Honor, at this time I move
21 Exhibit 1254 into evidence.

02:03PM

02:03PM

22 THE COURT: Yes, Counsel?

02:03PM

23 MR. MARTIN: Your Honor, I need a minute to find
24 the document. My list does not have it on it.

02:03PM

02:03PM

25 THE COURT: All right. Go ahead. Let's see if

02:04PM

1 you -- try to see if you have it. Can you make this bigger? 02:04PM

2 MS. S. MILLER: Sure. Can you zoom in on a 02:04PM
3 portion. You might have to do it left side, right side. 02:04PM

4 THE COURT: Yeah, that's fine. I just need to 02:04PM
5 read it. 02:04PM

6 (Pause.) 02:04PM

7 THE COURT: Yes, yes, Mr. -- continue, go ahead. 02:05PM

8 MR. MARTIN: Your Honor, I haven't found mine. 02:05PM
9 It's obviously in another folder somewhere that was produced 02:05PM
10 at a different time but I'm -- I object to the chart because 02:05PM
11 the chart has dates on it from what I could tell that are 02:05PM
12 outside the dates on the indictment. 02:05PM

13 THE COURT: Okay. Let's start with the -- okay, 02:06PM
14 which block there? Tell me, they've highlighted block one, 02:06PM
15 two, three, four, five, which one -- is there anything in 02:06PM
16 there? Or no? Or can you just show me where, tell me which 02:06PM
17 block it is. 02:06PM

18 MR. MARTIN: If I might just have a moment, Your 02:06PM
19 Honor? 02:06PM

20 THE COURT: Uh-huh. 02:06PM

21 MS. MCCONWELL: Your Honor, this is -- 02:06PM

22 THE COURT: Go ahead. Yes. 02:06PM

23 MS. MCCONWELL: -- is not relevant to the 02:06PM
24 Count 99 or 100 through 110, which this witness is testifying 02:06PM
25 about. 02:06PM

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1 THE COURT: Okay. Which count is this relevant
2 to?

3 MS. S. MILLER: It is relevant to
4 Mr. Khamvongsa's entire analysis with respect to Counts 99
5 through 110.

6 THE COURT: Okay, Counts 99 through 110. All
7 right. And you're saying it's not relevant. We'll get back
8 to that. We'll get back to the relevancy but that's what
9 she's saying it's relevant to.

10 MS. S. MILLER: Your Honor, just so you're aware,
11 this was part of the hearing we had on summary charts. This
12 was one of the charts we discussed back in March.

13 THE COURT: Was this already admitted then?

14 MS. S. MILLER: It wasn't admitted because he was
15 the one --

16 MS. MCCONWELL: Your Honor, we did not stipulate
17 to admission of this chart.

18 THE COURT: That's what I'm asking. Did they
19 stipulate to this?

20 MS. S. MILLER: Yes, Your Honor.

21 THE COURT: To the admission of this chart?

22 MS. S. MILLER: Not to the admission, I'm sorry.
23 To the authenticity of the underlying document. This was one
24 of the ones we discussed at that hearing.

25 THE COURT: So this was stipulated to, as far as

Direct - Khamvongsa

1 authenticity?

02:07PM

2 MS. S. MILLER: Right.

02:07PM

3 THE COURT: No need to get a records custodian.

02:07PM

4 MS. S. MILLER: Right.

02:07PM

5 THE COURT: And just to be clear, Counsel
6 received the underlying document supporting this summary
7 chart?

02:07PM

02:07PM

8 MS. S. MILLER: Yes, and the G numbers on the
9 chart itself.

02:07PM

02:07PM

10 MS. MCCONWELL: Yes, we didn't receive
11 specifically the exhibits, but I did review the G number, they
12 did -- on the chart has G numbers and I did find most of the G
13 numbers contained within their exhibit list.

02:07PM

02:07PM

02:08PM

02:08PM

14 THE COURT: So I mean, but you're not disputing
15 that defense Counsel received the underlying documents
16 supporting this chart?

02:08PM

02:08PM

02:08PM

17 MS. MCCONWELL: Well, I looked -- searched for
18 them myself out of their exhibits, yes.

02:08PM

02:08PM

19 THE COURT: So you are disputing them or you're
20 not disputing?

02:08PM

02:08PM

21 MS. MCCONWELL: Well, if you're asking me, Your
22 Honor, if they gave me the chart -- well --

02:08PM

02:08PM

23 THE COURT: No, my question is, okay, obviously
24 you've seen the chart, right?

02:08PM

02:08PM

25 MS. MCCONWELL: Right. And I looked at the Gs on

02:08PM

1 there.

02:08PM

2 THE COURT: Okay, so my question is, have you
3 received all of the underlying documents supporting the
4 summary chart? That's all I want to know.

02:08PM

02:08PM

02:08PM

5 MS. MCCONWELL: I believe so. I don't have my
6 notes but I believe --

02:08PM

02:08PM

7 THE COURT: So there is no objection based on
8 that.

02:08PM

02:08PM

9 MS. MCCONWELL: No.

02:08PM

10 MR. MARTIN: Your Honor.

02:08PM

11 THE COURT: If there was, there would be an
12 issue. Go ahead. Yes?

02:08PM

02:08PM

13 MR. MARTIN: If we can to go to -- I think it's
14 the second page referring, for example, to Count 53.

02:08PM

02:08PM

15 THE COURT: Okay. Let's go to page 2.

02:09PM

16 MS. MCCONWELL: The third page.

02:09PM

17 THE COURT: 1254, page 2.

02:09PM

18 MS. MCCONWELL: Three.

02:09PM

19 THE COURT: 1254, page 3? And then can you make
20 that bigger. What count did you say? Count what?

02:09PM

02:09PM

21 MR. MARTIN: 53.

02:09PM

22 THE COURT: Okay, there is no 53. You got to go
23 down more. There it is, there, there. Okay. Count 53.
24 Okay. Let me look at the date. Which date are you looking
25 at?

02:09PM

02:09PM

02:09PM

02:09PM

Direct - Khamvongsa

1 MR. MARTIN: I'm looking at -- let me see. It 02:09PM
2 will be the fourth column. 02:09PM
3 THE COURT: Okay. 1, 2, 3, 4. Okay. Okay, I 02:09PM
4 see it. 02:09PM
5 MR. MARTIN: That's an accurate date. The fifth 02:09PM
6 column is not. And the sixth and seventh -- 02:09PM
7 THE COURT: Okay. Wait, 1, 2, 3, 4, okay 5, 6 02:09PM
8 and 7 are not accurate? Is that -- 02:10PM
9 MR. MARTIN: They're not alleged in the 02:10PM
10 indictment, Your Honor. 02:10PM
11 THE COURT: Okay. Okay. I can't see what the -- 02:10PM
12 can I go up to the headings, please? Can you move, heading. 02:10PM
13 5, 6, 7 heading, okay. Okay. I guess I don't understand -- 02:10PM
14 can you go back up to the heading, please. Can you keep it -- 02:10PM
15 there. Are you saying those heading dates are not contained 02:10PM
16 in the indictment? 02:10PM
17 MR. MARTIN: I'm saying, Your Honor, the fourth 02:10PM
18 -- there is what's alleged in the indictment. Then I'm saying 02:10PM
19 that what's alleged in the other dates are outside, for 02:10PM
20 example that one. 02:10PM
21 THE COURT: Okay. Let me just go to Count 55. 02:10PM
22 MR. MARTIN: 53, Your Honor. 02:10PM
23 THE COURT: Oh, 53 excuse me, so Count 53. Oh, I 02:11PM
24 see what you're saying. So Count 53 only has one date, right? 02:11PM
25 MR. MARTIN: Correct, Your Honor. 02:11PM

Direct - Khamvongsa

1 THE COURT: Okay. Oh, I see. Well, it one only
2 has one month and one year.

3 MR. MARTIN: Correct, Your Honor, and there are
4 dates way outside that.

5 MS. S. MILLER: Your Honor, if I may respond?

6 THE COURT: Yeah.

7 MS. S. MILLER: So this summary chart is
8 summarizing the facts within these documents that are
9 defendants documents.

10 THE COURT: Okay. So let's back up. So
11 essentially, what you're saying is that there are underlying
12 documents that support these other dates? That's what you're
13 saying?

14 MS. S. MILLER: Right. The dates are just taken
15 from the document themselves.

16 THE COURT: No, I got it. All I want to know is,
17 because one of the documents that's underlying -- an
18 underlying document that supports this summary chart is the
19 indictment. But there is also other documents. That's what
20 you're saying?

21 MS. S. MILLER: I wasn't referencing the
22 indictment. I was just saying the dates that read blue
23 columns which I think is what he's taking issue with, are just
24 summarizing what the dates are within the underlying document.

25 THE COURT: Right. So my -- okay. But my

1 question is, okay, but it's clear that at least one of those 02:12PM
2 month and year is contained within the indictment. Is 02:12PM
3 contained in the indictment, so the indictment is an 02:12PM
4 underlying document, right? Ms. Samantha Miller. 02:12PM

5 MS. S. MILLER: Not for the summary chart. Well, 02:12PM
6 I guess yes, it is. It's referencing the counts, you're 02:12PM
7 right, yes. 02:12PM

8 THE COURT: I think it is. But my only question 02:12PM
9 was, so there are other document -- you're not relying -- 02:12PM
10 another underlying document that supports this summary chart 02:12PM
11 which has these other dates outside of the indictment date are 02:12PM
12 other documents? 02:12PM

13 MS. S. MILLER: Yes. And they're all referenced 02:12PM
14 in the last column on the far right, all the documents that 02:12PM
15 are -- 02:12PM

16 THE COURT: That's only question I have. Okay, 02:12PM
17 Mr. Martin? Yes? 02:12PM

18 MR. MARTIN: Well, my objection is, Your Honor, 02:13PM
19 the summary chart presents evidence that's not even included 02:13PM
20 in the indictment, and I object to that. 02:13PM

21 THE COURT: Okay, the objection will be overruled 02:13PM
22 because the summary chart is based on underlying documents, 02:13PM
23 it's not just one document, according to the prosecutor. They 02:13PM
24 have more than one document, including -- can you go up to the 02:13PM
25 heading please, including the documents contained in the last 02:13PM

1 -- in the last chart in the last column, government exhibit
2 number. Is that a fair statement?

3 MS. S. MILLER: Yes.

4 THE COURT: All right. Mr. Martin, so based on
5 that -- go ahead. So based on that objection, the Court will
6 overrule the objection because apparently you guys have
7 received all the underlying documents that support the summary
8 chart. If that's the case, then the Court will admit this.
9 Yes.

10 MS. MCCONWELL: Your Honor, it's not relevant to
11 Count 99.

12 THE COURT: Oh, okay, so -- now there is a
13 different argument. So it's not relevant to Count 99?

14 MS. MCCONWELL: Right. If you look at what's
15 charged and what they're alleged to have done, this isn't
16 relevant.

17 THE COURT: Well, she said -- he's speaking
18 what's relevant as to Count 99 through 110. Oh, I see, you're
19 saying Count 53 is not relevant but there is --

20 MS. MCCONWELL: No, I'm saying this chart she
21 wants to admit is not relevant to any of the Counts 99 and
22 above.

23 THE COURT: Oh, so there is no counts noted here
24 from 99 to 110? Is that what you're saying?

25 MR. MARTIN: Yes, Your Honor.

Direct - Khamvongsa

1 THE COURT: Oh okay, I get that now. All right,
2 so therefore? Go ahead.

3 MS. S. MILLER: So Your Honor, he just testified
4 what -- the first step in his analysis was using the bank
5 records to tie the tuna boat companies to the uncertificated
6 mechanics and he found that information in these types of
7 documents. So he's summarizing the types of documents he
8 reviewed to get to the Counts 99 through 110.

9 THE COURT: I'm sorry. So you're saying that
10 this summary chart will -- I'm sorry, this summary chart
11 relates to Counts 99 to 110, even though it's not noted as a
12 count but the information contained in the underlying
13 documents --

14 MS. S. MILLER: He relied upon to get to those
15 counts.

16 THE COURT: To -- for his investigation of 99
17 through 110?

18 MS. S. MILLER: Yes.

19 THE COURT: Okay, that's her proffer.

20 MS. MCCONWELL: Well, it's not -- it isn't
21 relevant, Your Honor. And if you look at what he -- all his
22 testimony and what he's told us he was going to be doing was
23 about -- the wire fraud and the money laundering charges, that
24 is what his testimony was limited to in the second superseding
25 indictment, which actually does not include 99, it starts off

1 with Counts 100 through 104 and Count 105 to 110 which provide
2 very specific dates and transactions that he's complaining
3 about and that's what's contained in his summary of what he's
4 going to talk about as the internal revenue officer.

5 THE COURT: Okay. Why don't I do this, let's see
6 if she can lay the foundation. If she can lay the foundation,
7 then the exhibit will come in. I mean, well the exhibit will
8 be deemed relevant. So let's just let her lay the foundation.
9 Because I think you guys objected immediately when the exhibit
10 thing came up.

11 MS. MCCONWELL: Okay. All right. We expect him
12 to be limited to what they provided in their trial brief,
13 though.

14 THE COURT: You don't think -- you don't -- you
15 think he's going beyond that in terms of his proffer?

16 MS. MCCONWELL: Yes, I do because --

17 MR. MARTIN: He already has, Your Honor. Their
18 offer didn't include Count 99.

19 THE COURT: Did it not include Count 99? Did it
20 or did it not?

21 MS. S. MILLER: I think we stated generally the
22 wire fraud and money laundering counts which include 99
23 because it's about conspiracy to commit wire fraud.

24 THE COURT: But the question is, did it include
25 Count 99. Let's not do generally. I'm a judge. I know the

Direct - Khamvongsa

1 words. Is it or not? Is it or is it not 99?

02:16PM

2 MS. MCCONWELL: If you look at Document ECF 1311
3 on page 51 of 68, it has what his summary testimony and it
4 says "Khamvongsa will testify as to wire fraud and money
5 laundering charges reflected in the second superseding
6 indictment."

02:16PM

02:17PM

02:17PM

02:17PM

02:17PM

7 MS. S. MILLER: Exactly. It was general.

02:17PM

8 THE COURT: Okay, hold on. So Count 99 is wire
9 fraud. Conspiracy to commit wire fraud.

02:17PM

02:17PM

10 MS. MCCONWELL: It doesn't say conspiracy. It
11 says the wire fraud and the money laundering. And those are
12 Counts 100 through 104, is wire fraud and 105 through 110 is
13 money laundering.

02:17PM

02:17PM

02:17PM

02:17PM

14 THE COURT: I'm sorry, so what does his notice
15 say to you all?

02:17PM

02:17PM

16 MS. MCCONWELL: He's going to testify about wire
17 fraud and money laundering.

02:17PM

02:17PM

18 THE COURT: Okay. Hold on. Hold on. Wire fraud
19 and money laundering. So the charges -- the charges for wire
20 fraud is count --

02:17PM

02:17PM

02:17PM

21 MS. MCCONWELL: 100 to 104.

02:18PM

22 THE COURT: 100 to 104. And money laundering is
23 105 to 110, right?

02:18PM

02:18PM

24 MS. MCCONWELL: Yes.

02:18PM

25 THE COURT: Do we agree with that?

02:18PM

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1 MS. S. MILLER: No, Your Honor, we generally 02:18PM
2 state -- 02:18PM
3 THE COURT: No. Wait. 02:18PM
4 MS. S. MILLER: I thought you were asking me. 02:18PM
5 THE COURT: No, I'll come to you in a minute. 02:18PM
6 Let me just understand her objection. All right. So the 02:18PM
7 notice that you have is this witness will only testify as to 02:18PM
8 Count 100 to 104 and 105 to 110. 02:18PM
9 MS. MCCONWELL: Yes. 02:18PM
10 THE COURT: Is that a fair -- is that what you're 02:18PM
11 saying? 02:18PM
12 MS. MCCONWELL: Yes. 02:18PM
13 THE COURT: And therefore, you had no notice that 02:18PM
14 he was also going to speak about Counts 99 through, well -- 02:18PM
15 MS. MCCONWELL: 99. 02:18PM
16 THE COURT: Well, she said 99 through 110. So 02:18PM
17 really, you had no notice that he was going to speak on 02:18PM
18 Count 99. 02:18PM
19 MS. MCCONWELL: Right. 02:18PM
20 THE COURT: But as far as 104 to 110, you do have 02:18PM
21 notice. 100 to 110 you have notice. Because she just said 02:18PM
22 that he was going to speak of 99 through 110, right? Did you 02:19PM
23 say that? 02:19PM
24 MS. S. MILLER: Yes. 02:19PM
25 THE COURT: He was -- 02:19PM

Direct - Khamvongsa

1 MS. S. MILLER: Wire fraud and money laundering
2 charges as a whole.

3 THE COURT: Okay. Okay. Wait. Wait. Okay.
4 Her proffer is, is that this witness is going to speak to
5 Counts 99 through 110. The document that you guys have just
6 submitted says that he's only going to speak to 100 to 104,
7 105 to 110. So you're really just talking about Count 99?

8 MR. MARTIN: Well, the summary chart, Your Honor,
9 deals with Counts 14 through 95.

10 THE COURT: Well, okay, but -- does it?

11 MR. MARTIN: Yes.

12 MS. MCCONWELL: Yes.

13 MS. S. MILLER: So I think there are two
14 different objections going on here. I don't know which one
15 the Court would like me --

16 THE COURT: Hold on. Hold on. Hold on. Let me
17 figure out the objection.

18 MS. S. MILLER: One was to our disclosure about
19 this witness --

20 THE COURT: You don't have to tell me that. Hold
21 on. I just got to figure out. You guys want me to analyze
22 this.

23 All right. So the first objection is, Count 99
24 should not be discussed, number one. And then No. 2, your
25 second objection is that this exhibit, this summary chart, it

1 only focuses on all other counts except for the counts that he 02:20PM
2 said he was going to speak of, which is 100 to 110 and the 02:20PM
3 proffer, is that -- those are the two objections? 02:20PM

4 MR. MARTIN: It's 13 through 95, Your Honor. 02:20PM
5 Counts 13 through 95 -- 14. 02:20PM

6 THE COURT: What's contained in the summary 02:20PM
7 chart? 02:20PM

8 MR. MARTIN: Yes, Your Honor. 02:20PM

9 MS. MCCONWELL: Yes. 02:20PM

10 THE COURT: 13 through 95. 02:20PM

11 MS. MCCONWELL: Well, 14 through 95. 02:20PM

12 THE COURT: Okay. What is it? 02:20PM

13 MS. MCCONWELL: 14 through 95. 02:20PM

14 THE COURT: Okay. 14. So this exhibit is 14 -- 02:20PM
15 only supposed to be focusing on 14 through 95. All right. Go 02:20PM
16 ahead. Now, you can -- now, I think we know the three -- two 02:20PM
17 objections. Go ahead. 02:20PM

18 MS. S. MILLER: Yes. So in response to the first 02:20PM
19 objection, what our trial brief says about Agent Khamvongsa 02:20PM
20 is, he will testify, quote, "as to the wire fraud and money 02:20PM
21 laundering charges reflected in the second superseding 02:21PM
22 indictment." It doesn't specifically mention any count 02:21PM
23 numbers but conspiracy to commit wire fraud is a wire fraud 02:21PM
24 charge. We didn't -- 02:21PM

25 THE COURT: I suppose they're getting very 02:21PM

Direct - Khamvongsa

1 particular because there is a conspiracy to commit wire fraud 02:21PM
2 charge and there is a straight wire fraud charge and there is 02:21PM
3 a straight money laundering charge. Okay, got it. Next. 02:21PM
4 Your response to the next objection. 02:21PM

5 MS. S. MILLER: Yes, the next response is, as 02:21PM
6 Mr. -- or Agent Khamvongsa just testified before we took this 02:21PM
7 break, he reviewed these specific documents, all of them, that 02:21PM
8 are summarized in the summary chart in order to trace the 02:21PM
9 funds from the bank accounts to the uncertificated mechanics 02:21PM
10 to identify the transactions that are in 104 through 110. 02:21PM

11 THE COURT: All right. Anything further, 02:21PM
12 Counsels? Any further objections? I can rule. 02:21PM

13 MR. MARTIN: I've laid ours out, Your Honor. 02:22PM

14 MS. MCCONWELL: Well... 02:22PM

15 THE COURT: Yes, Ms. McConwell? 02:22PM

16 MS. MCCONWELL: In their Counts 1 -- 100 02:22PM
17 through 104 and 105 through 110, there are no financial 02:22PM
18 transactions as described by Ms. Miller. 02:22PM

19 THE COURT: I'm sorry, can you repeat that? What 02:22PM
20 was that? 02:22PM

21 MS. MCCONWELL: Ms. Miller indicated -- 02:22PM

22 THE COURT: Summary chart. 02:22PM

23 MS. MCCONWELL: Yes. Ms. Miller indicated that 02:22PM
24 the summary chart supports 100 through 104 and 105 through 110 02:22PM
25 because there were supposedly financial transactions that he 02:22PM

Direct - Khamvongsa

1 identified using this -- this -- her summary chart that she's
2 attempting to get into evidence, but there is nothing about
3 any of the information from these Counts 14 through 95 which
4 are contained in 100 through 104 or 105 through 110. Those
5 are very specific financial transactions that in no way relate
6 to the chart that's 1254.

7 THE COURT: Okay. Hold on one second. So
8 Counts 14 through 93 are employing a pilot without a pilot
9 certificate. And counts -- okay, just a minute. I'm just
10 looking at the indictment. Correct? 14 to 93 is employing a
11 pilot without a pilot certificate and 94 to 95 is registration
12 -- no, no, is that right?

13 MS. S. MILLER: Yes.

14 THE COURT: Okay, I'm sorry. One. Two. Okay.
15 14 to 93 is employing a mechanic without a mechanic's
16 certificate. And Counts 94 to 95 is employing a pilot without
17 a pilot certificate.

18 So this is dealing with mechanic and pilot
19 certificate. And you're saying that this has nothing to do
20 with Counts 99 to 110? She -- but her -- her comment is, is
21 that the information contained herein is relevant to his
22 investigation of 99 to 110.

23 MS. MCCONWELL: And I say with 100 through 110,
24 it is not. It relates in no way to those counts.

25 THE COURT: Okay, so I mean maybe at first blush

Direct - Khamvongsa

1 that may be true, but let's see if the prosecutor lay a 02:24PM
2 foundation on this. Okay, go ahead. Try to lay a foundation 02:24PM
3 with the witness. Let's see if you can do it, Counsel. 02:24PM

4 MS. S. MILLER: Yes. 02:24PM

5 THE COURT: Okay. So I won't make a ruling on 02:24PM
6 the admission of this. Let's just try to lay the foundation 02:24PM
7 first. This is only for purposes of relevancy, Counsel. 02:24PM
8 Okay, go ahead. Because otherwise it would be admitted, but 02:24PM
9 if it's irrelevant, it won't be admitted. 02:24PM

10 (Pause.) 02:25PM

11 BY MS. S. MILLER: (CONTINUING) 02:25PM

12 Q. Okay. I'd like to show -- let's move away from this 02:25PM
13 so I can lay a foundation. I'd like to show you what's been 02:25PM
14 previously marked as Exhibit 166 and page 68, specifically. 02:25PM
15 Yes. Exhibit 166, page 68, please. Okay, what about 176, 02:25PM
16 page 79, please. 02:25PM

17 (Pause.) 02:26PM

18 BY MS. S. MILLER: (CONTINUING) 02:26PM

19 Q. Okay. Let's -- is 183 in there? Okay, let's pull up 02:26PM
20 Exhibit 183, please. 02:26PM

21 THE COURT: Okay. And has this been admitted? 02:26PM

22 MS. S. MILLER: It has not. 02:26PM

23 BY MS. S. MILLER: (CONTINUING) 02:26PM

24 Q. Special Agent Khamvongsa, do you recognize this 02:26PM
25 document? 02:26PM

Direct - Khamvongsa

1 A. Yes.

02:26PM

2 Q. What is it?

02:26PM

3 A. This is a pilot mechanic listing that was provided to
4 me as a result of the search warrant.

02:26PM

5 MS. MCCONWELL: Your Honor, I think he needs to
6 --

02:26PM

02:27PM

7 THE COURT: I'm sorry, what was the objection?

02:27PM

8 MS. MCCONWELL: Well, he's testifying about an
9 exhibit that's not been admitted into evidence.

02:27PM

02:27PM

10 THE COURT: Right. Just say, do you recognize it
11 without saying what it is.

02:27PM

02:27PM

12 THE WITNESS: My apologies, Your Honor.

02:27PM

13 THE COURT: Okay, that's fine. So do you
14 recognize it?

02:27PM

02:27PM

15 THE WITNESS: Yes.

02:27PM

16 THE COURT: Okay. Next question.

02:27PM

17 BY MS. S. MILLER: (CONTINUING)

02:27PM

18 Q. I think I asked him, what is it for identification
19 purposes?

02:27PM

02:27PM

20 THE COURT: He can't say what it is until it's
21 admitted.

02:27PM

02:27PM

22 MS. S. MILLER: So I move to admit Exhibit 183,
23 please, Your Honor.

02:27PM

02:27PM

24 THE COURT: How does he recognize it?

02:27PM

25 BY MS. S. MILLER: (CONTINUING)

02:27PM

Direct - Khamvongsa

1 Q. How do you recognize it? 02:27PM

2 A. It was provided to me from the FBI search warrant. 02:27PM

3 Q. And can you remind the jury what the FBI search
4 warrant materials are? 02:27PM

5 A. The FBI search warrant materials include lease
6 agreements, pilot-mechanic listings, e-mails, invoices. 02:27PM

7 MS. S. MILLER: So at this time, Your Honor, I
8 move Exhibit 183 into evidence. 02:27PM

9 THE COURT: All right. Any objections, Counsels? 02:27PM

10 MR. MARTIN: On behalf Mr. Walker, Your Honor, I
11 object on the basis of hearsay. 02:28PM

12 THE COURT: Okay. And Ms. McConwell? 02:28PM

13 MS. MCCONWELL: This is -- this document is not
14 relevant to Hansen Helicopters. Hansen Helicopters is not
15 charged in Counts 99 through 110 and...I had one other one,
16 but I can't remember what it was. 02:28PM

17 THE COURT: Okay, then I can't rule on that.
18 Counts 99 through 110, is this really only to Counts 99
19 through 110? 02:28PM

20 MS. S. MILLER: No, Your Honor. This is one of
21 the underlying documents for that summary chart that Agent
22 Khamvongsa reviewed in his investigation. 02:28PM

23 THE COURT: Okay. 02:28PM

24 MS. MCCONWELL: And, Your Honor, it's not
25 relevant to any of those counts. 02:28PM

Direct - Khamvongsa

1 THE COURT: Okay. So it's relevancy. Okay. So 02:28PM
2 even though it supports the -- it may support the summary 02:29PM
3 chart, the objection is relevancy. So that's the real 02:29PM
4 objection. 02:29PM

5 MS. S. MILLER: Right, and it's relevant to how 02:29PM
6 he traced the funds, his analysis of tracing those funds to 02:29PM
7 finally conclude that there was -- 02:29PM

8 THE COURT: You don't have to tell us the 02:29PM
9 conclusion, just say to what count. 02:29PM

10 MS. S. MILLER: That led to the counts, the 02:29PM
11 allegations in Counts 99 through 110. 02:29PM

12 THE COURT: Okay. Okay. Yes? 02:29PM

13 MS. MCCONWELL: Well, Your Honor, he -- 02:29PM
14 Mr. Khamvongsa is an investigator. He's not an expert, first 02:29PM
15 of all. And then second, and I was remiss not asking when he 02:29PM
16 started that Hansen Helicopters would also request a limiting 02:29PM
17 instruction that his testimony is only for Mr. Walker and not 02:29PM
18 for Hansen Helicopters. 02:29PM

19 THE COURT: Any objection to that? 02:29PM

20 MS. S. MILLER: No, Your Honor. 02:29PM

21 THE COURT: All right. So as far as it relates 02:29PM
22 to Counts 99 to 100, first of all, let's see G-183-1, based on 02:29PM
23 your proffer, the Court, ladies and gentlemen of the jury, 02:30PM
24 will admit G-183-1. This -- so that's G-183-1, this 02:30PM
25 particular exhibit. It's only one page? 02:30PM

Direct - Khamvongsa

1 MS. S. MILLER: I think it's longer than that, 02:30PM
2 Your Honor. We can just admit page -- it's four pages total. 02:30PM
3 We could do the first page or all four. Either way. 02:30PM

4 THE COURT: You tell me what you want to do. 02:30PM
5 What is relevant to the case? 02:30PM

6 MS. S. MILLER: Let's go for all four pages, 02:30PM
7 please. 02:30PM

8 THE COURT: So G-183 to 2, 3 and 4 will be 02:30PM
9 admitted with objection. And ladies and gentlemen, it is 02:30PM
10 would only apply to -- if you believe it, you would only apply 02:30PM
11 to -- or you consider it, it would only apply to defendant 02:30PM
12 Walker but not to Hansen Helicopters. 02:30PM

13 (Exhibit G-183 admitted) 02:30PM

14 And that is as it relates to, according to the 02:30PM
15 prosecutor, 99 through 110; is that correct? 02:30PM

16 MS. S. MILLER: Yes, Your Honor. 02:30PM

17 THE COURT: All right. Go ahead. You may 02:30PM
18 proceed. 02:30PM

19 MS. S. MILLER: May I publish to the jury, Your 02:30PM
20 Honor? 02:30PM

21 THE COURT: You may. 02:30PM

22 MS. S. MILLER: Thank you. So if we could just 02:31PM
23 zoom in, just on the top left quarter perhaps of the document, 02:31PM
24 please, Mr. Leon Guerrero. I know it's hard to see with the 02:31PM
25 video there. There you go. Perfect. Top quarter on the 02:31PM

1 left, please. So down a little bit and down to the right just 02:31PM
2 a little more. Just up to the date, perhaps. Perfect. Thank 02:31PM
3 you so much. 02:31PM

4 BY MS. S. MILLER: (CONTINUING) 02:31PM

5 Q. So Special Agent Khamvongsa, can you please read to 02:31PM
6 the jury the title of this document in the top left corner? 02:31PM

7 A. "Hansen Helicopters, Inc. Pilot Mechanic Aircraft 02:31PM
8 Vessel Fax, Phone E-mail List." 02:31PM

9 Q. Special Agent Khamvongsa, I believe you refer to the 02:31PM
10 documents you used in your investigation as PM lists; can you 02:31PM
11 explain whether that relates to this document? 02:31PM

12 A. It does. PM list is the electronic Excel file as to 02:31PM
13 how it was saved. That was the title of the file itself. 02:32PM

14 Q. So "P" stands for what? 02:32PM

15 A. Pilot. 02:32PM

16 Q. And "M" stands for what? 02:32PM

17 A. Mechanic. 02:32PM

18 Q. So you would agree that that title that you used is 02:32PM
19 what is featured here in the top left corner? 02:32PM

20 A. That's correct. 02:32PM

21 Q. Okay. Now, can we walk through, please -- can you 02:32PM
22 walk the jury through the information that we're seeing just 02:32PM
23 in this top quarter of page 1 of Exhibit 183? 02:32PM

24 A. The first column identifies the helicopter assignment 02:32PM
25 to the fishery that is leasing it out. And then the next 02:32PM

Direct - Khamvongsa

1 column identified as vessels, identifies the specific tuna
2 boats in which the helicopter is assigned to.

3 The next column entitled *Pilot* identifies the pilot,
4 the start contract date and the end contract date captures
5 their contract period for the pilot. The days remaining is
6 calculating what days are left and it's a running clock as
7 identified by the negative. The mechanic is the -- identified
8 there, the mechanic assigned to the helicopter. The start
9 contract date and the end contract date refers to the
10 mechanic.

11 Q. When you say it "refers to the mechanic," can you
12 explain that a little further?

13 A. It refers to the timeframe in which the mechanics are
14 assigned to the helicopters, which are identified in the first
15 columns.

16 Q. Now, did you see more than this one example, this
17 four-page document of what you've called *PM lists* or pilots
18 and mechanics lists?

19 A. Yes. I reviewed over 30.

20 Q. Over 30.

21 And also, I realize you've also referred to it as an
22 aircraft vessel list, right?

23 A. Correct.

24 Q. Okay. So if we hear you say pilot mechanic list, PM
25 list or aircraft vessel list, you're talking about this type

1 of document?

02:33PM

2 A. This one and another one.

02:33PM

3 Q. Okay. Before we go back to the summary chart, while
4 the jury is looking at this particular example, can you walk
5 them through, again, how you used this type of document in
6 your wire fraud, including conspiracy to commit wire fraud,
7 and money laundering investigation?

02:33PM

02:34PM

02:34PM

02:34PM

02:34PM

8 A. So in reviewing this document, I compiled all the
9 names on there as it relates to the mechanics. There, I gave
10 that information to my counterparts at DOTOIG and FAA, who
11 verified whether or not they were FAA certified or
12 certificated mechanics. I utilized that information to
13 identify. Once the information came back, I tied those
14 vessels that paid lease payments into the bank accounts to the
15 mechanic and the helicopter.

02:34PM

02:34PM

02:34PM

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02:34PM

02:34PM

16 Q. How did you -- how did you tie that? Can you explain
17 what you mean by "tie that" a little bit more?

02:34PM

02:34PM

18 A. When I say "tie that," I mean I associate that the
19 from one document to another document to another document. So
20 in reviewing this document again, for example, if we take the
21 first person, Henry Delumen, I would then go to another
22 document that was provided by FAA that would say that he --
23 that would say whether or not he's certificated.

02:35PM

02:35PM

02:35PM

02:35PM

02:35PM

02:35PM

24 Q. Now, let me stop you there. I know you've been
25 working on this investigation for a long time. But once a

02:35PM

02:35PM

Direct - Khamvongsa

1 summary chart of that information was created, did you use 02:35PM
2 that summary chart to identify whether the particular mechanic 02:35PM
3 listed in that column was a FAA-certificated mechanic? 02:35PM

4 A. Yes. 02:35PM

5 Q. Okay. Continue please. 02:35PM

6 A. Once identified, I would then look at another source 02:35PM
7 document that was provided via grand jury subpoena from the 02:35PM
8 Hansen Helicopters, Inc. and from there, I would verify if a 02:35PM
9 payment was made. There, I would refer to the -- 02:35PM

10 Q. Sorry. Let me stop you there. When you say a 02:36PM
11 payment was made, from who and to who? 02:36PM

12 A. When I say payment was made, it's from the tuna boat 02:36PM
13 company to Hansen Helicopters or one of its subsidiaries. 02:36PM

14 Q. And what documents did you look at to see whether a 02:36PM
15 payment was made from a tuna boat company to a Hansen entity 02:36PM
16 or one of its subsidiaries? 02:36PM

17 A. I looked at two documents. 02:36PM

18 Q. Okay. What are those two document? 02:36PM

19 A. I looked at Hansen Helicopters' own billing, schedule 02:36PM
20 of billing and collections and I compared that to the bank 02:36PM
21 records. 02:36PM

22 Q. Okay. So now I'd like to go back to the summary 02:36PM
23 chart, Exhibit 1254, please. 02:36PM

24 THE COURT: Let me just tell you, we're going to 02:36PM
25 take a recess at 3 for like a 20-minute recess because I'm 02:36PM

1 sorry, ladies and gentlemen of the jury, I have to handle
2 another legal matter. So -- which is not part of this case,
3 but I have to handle it. So it will be from 3 to 3:20 okay.

4 MS. S. MILLER: Thank you, Your Honor.

5 THE COURT: Yeah. Do you think you'll be done
6 with the witness before --

7 MS. S. MILLER: I don't think so. Probably not.

8 THE COURT: Okay.

9 MS. S. MILLER: But not too much after that time.

10 THE COURT: Okay. Go ahead. Just checking on
11 our time.

12 BY MS. S. MILLER: (CONTINUING)

13 Q. Yeah. So if we can look at Exhibit 1254, please.
14 Now, Special Agent Khamvongsa, you've already testified that
15 you recognize this document. Can you tell -- well, I would
16 move for its admission Your Honor, Exhibit 1254?

17 THE COURT: Okay. Counsels?

18 MR. MARTIN: Your Honor, I think I previously
19 objected to this document.

20 THE COURT: Yeah. Yeah. So I do have your
21 objections. You have any further objection?

22 MR. MARTIN: No, Your Honor.

23 MS. MCCONWELL: I have a voir dire in aid of an
24 objection.

25 THE COURT: Yes. Go ahead.

Direct - Khamvongsa

VOIR DIRE

BY MS. MCCONWELL:

Q. Mr. Khamvongsa --

MS. MCCONWELL: I want a limiting instruction.
I'm sorry. Hang on a second.

THE COURT: I'm sorry? I'm sorry, go ahead.

MS. MCCONWELL: I need to confer with Counsel.

(Pause.)

MS. MCCONWELL: Your Honor, I still have my
objection, but I would like a limiting instruction.

THE COURT: Okay, for 1254?

MS. MCCONWELL: For 1254.

THE COURT: Al right. Okay, ladies and gentlemen
of the jury, the Exhibit 1254 will be admitted over objection
and it will not apply to Hansen Helicopters, but it will apply
for your consideration, to the defendant, Mr. Walker. So yes,
you may proceed and the relevancy objection is overruled.

MS. S. MILLER: Thank you, Your Honor, may I
publish to the jury?

(Exhibit 1254 admitted.)

THE COURT: You may.

MS. S. MILLER: Thank you.

BY MS. S. MILLER: (CONTINUING)

Q. So Mr. Leon Guerrero, could we do a top, sort of
fourth of this document through the blue column first, please.

1 So we can make sure the jury can read it, it's a little small. 02:39PM

2 That works. Great, thank you. 02:39PM

3 So Special Agent Khamvongsa, you testified that this 02:39PM
4 is a summary chart, right? 02:39PM

5 A. Yes. 02:39PM

6 Q. Could you tell the jury what it's summarizing? 02:39PM

7 A. This particular summary chart is summarizing the 02:39PM
8 information in which I reviewed, which includes search warrant 02:39PM
9 evidence and grand jury subpoenaed evidence all belonging to 02:39PM
10 Hansen Helicopters, Inc. or its subsidiaries. 02:39PM

11 Q. And could you tell the members of the jury the name 02:39PM
12 of the summary chart? 02:39PM

13 A. The name of the summary chart is Summary of PM List 02:39PM
14 Data from Search Warrant and Subpoenaed Hansen Helicopters 02:39PM
15 Records. 02:39PM

16 Q. Okay. And could we go one by one and I'll ask the 02:39PM
17 questions for each column, but first can you tell the members 02:39PM
18 of the jury what's in the first column entitled *Helicopter*? 02:39PM

19 A. The first column contains all the helicopters 02:39PM
20 identified in the documents, which I just discussed. 02:40PM

21 Q. Okay. And in the mechanic column? 02:40PM

22 A. The mechanic lists all the names I found in the 02:40PM
23 search warrant material and the grand jury subpoenaed material 02:40PM
24 from Hansen Helicopters. 02:40PM

25 Q. And what are -- what's indicated in the count column? 02:40PM

Direct - Khamvongsa

1 A. The count is in reference to the number in the 02:40PM
2 indictment for that particular individual. 02:40PM

3 Q. Okay. And then what does the indictment column mean? 02:40PM

4 A. The indictment is in reference to the timeframe, 02:40PM
5 which is identified within the indictment for that mechanic. 02:40PM

6 Q. So is it fair to say that those two columns, count 02:40PM
7 and indictment, is just repeating information contained in the 02:40PM
8 second superseding indictment? 02:40PM

9 A. That's correct. 02:40PM

10 Q. Okay. And then the next two columns, the first two 02:40PM
11 sort of aqua-colored ones, reported contract dates, can you 02:40PM
12 read, before you tell them exactly what is in there, sort of 02:40PM
13 the subheading above that, please? 02:40PM

14 A. It says "PM list files from search warrant." 02:40PM

15 Q. Can you please tell the jury what that means? 02:41PM

16 A. Again, this pertains specifically to the search 02:41PM
17 warrant material or search warrant evidence that was provided 02:41PM
18 to me from the FBI search warrant in October 2016. 02:41PM

19 Q. And when it says "PM list," what does that mean? 02:41PM

20 A. Pilot mechanic. 02:41PM

21 Q. So is that -- are these references that are taken 02:41PM
22 directly from examples of documents like the last one we just 02:41PM
23 looked at? 02:41PM

24 A. Yes. 02:41PM

25 Q. And in the next two columns that are the gray 02:41PM

Direct - Khamvongsa

1 heading?

2 A. The gray heading refers to subpoenaed records I
3 received from Hansen Helicopters and it's a summary of that.

4 Q. I'm sorry, let's go back one. File saved dates. Can
5 you tell the jury what that means?

6 A. So of the 30 files that I reviewed, at the end of the
7 title of the document when it says "PM list," a date was
8 provided in reference to the save date of that file.

9 Q. So to be clear, the documents you're referencing, the
10 30 files, they were electronic files you were reviewing?

11 A. Yes. They were electronic Excel files.

12 Q. Okay. Thank you. And then finally the government
13 exhibit number column, could you tell the jury what that
14 means, please?

15 A. Those reference the pilot mechanic listings and the
16 government exhibit numbers that are tied to those specific
17 pilot mechanic lists from the search warrant.

18 Q. Thank you.

19 A. Or the subpoenaed documents.

20 Q. Thank you. Okay. Let's -- well, taking a step back,
21 Agent Khamvongsa, you testified earlier that you also reviewed
22 the lease contracts or lease with the tuna boat companies,
23 right?

24 A. Correct.

25 Q. About how many leases would you say you reviewed?

Direct - Khamvongsa

1 A. Over 200.

02:42PM

2 Q. Okay. About how many pages was that?

02:42PM

3 A. Um... 4 to 5,000 pages.

02:42PM

4 Q. Okay. I'd like to take a look at one of those
5 leases, which has been previously admitted. Could we can
6 please go to Exhibit 2900-1142.

02:42PM

02:42PM

02:42PM

7 THE COURT: Okay. This has not been admitted.

02:43PM

8 MS. S. MILLER: No, it has been admitted, Your
9 Honor.

02:43PM

02:43PM

10 THE COURT: Oh, it has been?

02:43PM

11 MS. S. MILLER: Yes.

02:43PM

12 THE COURT: 2900 dash what?

02:43PM

13 MS. S. MILLER: 1142.

02:43PM

14 BY MS. S. MILLER: (CONTINUING)

02:43PM

15 Q. Now, while we're pulling that up, can you remind the
16 jury, Special Agent Khamvongsa, why you looked at the
17 helicopter leases or contracts?

02:43PM

02:43PM

02:43PM

18 A. I looked at the helicopter leases and contracts just
19 to verify the information that's provided within the document
20 here, so I was just trying to corroborate all the evidence and
21 tie them all together.

02:43PM

02:43PM

02:43PM

02:43PM

22 Q. So what was it specifically in the lease documents
23 you were looking at?

02:43PM

02:43PM

24 A. I was looking at the lease contract information,
25 itself, what was stated within the contract.

02:43PM

02:43PM

Direct - Khamvongsa

1 Q. Okay. Special Agent Khamvongsa, of the -- I think
2 you said 200 leases, is this one of the leases you reviewed?

3 A. Yes.

4 Q. Could you tell the jury who the lessor is?

5 A. The lessor identified in this document is Wilma's
6 Flight Service, Inc.

7 Q. And that's the one leasing the helicopter?

8 A. That is the one leasing the helicopter.

9 Q. And who is the lessee?

10 MS. MCCONWELL: Your Honor, I object to this
11 line. The dates contained in the chart that he's talking
12 about, Exhibit 1254, all occur within 2015 -- '14, '15 and
13 '16. And the document she's asking questions about occurred
14 in 2008. So it in no way -- so these questions are not
15 relevant to the document.

16 THE COURT: So the objection is relevance?

17 MS. MCCONWELL: Relevance.

18 THE COURT: Okay. Counsel?

19 MS. S. MILLER: Count 99 goes well beyond those
20 specific dates.

21 THE COURT: Count 99?

22 MS. S. MILLER: Mm hmm.

23 (Pause.)

24 MS. MCCONWELL: Well, Your Honor, she
25 specifically -- she's specifically asking him what he looked

Direct - Khamvongsa

1 at in tying together the information for this summary chart 02:45PM
2 that's just been admitted, 1254, and he indicated he looked at 02:45PM
3 leases to tie together the information with pilots and 02:45PM
4 mechanics. And 2008, which is what this 2900-1142, which is 02:45PM
5 dated. There are no dates. This document that was created 02:45PM
6 was about eight years after or before -- or yeah, they're 02:45PM
7 discussing now is eight years before any item that's contained 02:45PM
8 on 1254. 02:45PM

9 THE COURT: So let me just be clear, so this 02:45PM
10 particular document, this is 1254, right? 02:45PM

11 MS. S. MILLER: Yes. 02:45PM

12 THE COURT: This is 1254? 02:45PM

13 MS. S. MILLER: This is 2900-1142. This 02:45PM
14 document. 02:46PM

15 THE COURT: Right now, this is 2900. 02:46PM

16 MS. MCCONWELL: Yes. 02:46PM

17 THE COURT: So you're saying between 2900-1142 is 02:46PM
18 irrelevant to the summary chart? 02:46PM

19 MS. MCCONWELL: Is not relevant to the summary 02:46PM
20 chart that she's having him testify what he looked at in 02:46PM
21 creating his -- yeah. 02:46PM

22 THE COURT: His investigation? 02:46PM

23 MS. MCCONWELL: Yes, ma'am. 02:46PM

24 MR. MARTIN: It's not an underlying document. 02:46PM

25 THE COURT: I'm sorry? 02:46PM

1 MR. MARTIN: It's not an underlying document to
2 the chart.

3 THE COURT: It's not an underlying document to
4 the chart?

5 MR. MARTIN: Correct.

6 MS. S. MILLER: May I respond, Your Honor?

7 THE COURT: First of all, is it an underlying
8 document to the chart?

9 MS. S. MILLER: So it's way beyond --

10 THE COURT: No, so my question, forget -- is it
11 an underlying document to the summary chart?

12 MS. S. MILLER: No, Your Honor.

13 THE COURT: Okay. Second question is, is it
14 relevant to the dates that are contained in the summary chart?
15 That's their objection.

16 MS. S. MILLER: Right, and it's not related to
17 the summary chart. So...

18 THE COURT: It's not related to the summary
19 chart. Okay?

20 MR. MARTIN: But the question she asked him was,
21 can we go to some documents that you used in creating the
22 summary chart. And if that's not the question, I mean don't
23 ask it, if that's not what you expect.

24 THE COURT: So you want -- so you said she was
25 tying it to the summary chart.

1 MR. MARTIN: Yeah. We can reread the question. 02:47PM
2 But I'm almost positive. 02:47PM
3 THE COURT: Let's check the evidence. Veronica,
4 can you read that last question?
5 (Whereupon the reporter read back requested
6 portion.)
7 MR. MARTIN: It's going to be a little before
8 that, Your Honor.
9 THE COURT: It's going -- so it has to deal with
10 the word *summary chart*. 02:47PM
11 MS. S. MILLER: Your Honor, I'll withdraw and 02:47PM
12 I'll use another example. It's not worth the time. So I'll 02:47PM
13 just use another. 02:47PM
14 THE COURT: You're withdrawing the question? 02:47PM
15 MS. S. MILLER: I'll withdraw this exhibit. We 02:47PM
16 can move on to a different exhibit. 02:47PM
17 THE COURT: Okay. The question is withdrawn. 02:47PM
18 Exhibit is withdrawn and objection is withdrawn. I don't have 02:47PM
19 to make a ruling. And Veronica, you don't have to read it. 02:47PM
20 So let's go. Next question. 02:47PM
21 BY MS. S. MILLER: (CONTINUING) 02:47PM
22 Q. I'd like to show you what has been previously marked 02:47PM
23 and admitted as Exhibit 2900-1447, please. 02:47PM
24 THE COURT: Has been admitted. 02:48PM
25 MS. S. MILLER: It has been. 02:48PM

Direct - Khamvongsa

1 THE COURT: 2900-14.

02:48PM

2 BY MS. S. MILLER: (CONTINUING)

02:48PM

3 Q. So while that's getting pulled up, Special Agent
4 Khamvongsa, can you please say again what you did in your
5 investigation with respect to the lease agreements, the
6 200-plus lease agreements you reviewed?

02:48PM

02:48PM

02:48PM

02:48PM

7 A. Again, in reviewing those lease agreements, I didn't
8 -- I reviewed it to identify how it matches up with the rest
9 of the documents. I was looking for patterns of consistency.
10 I relied on not only the pilot mechanic listings, but also
11 other records that I looked at from the FAA, such as the
12 registration documentations.

02:48PM

02:48PM

02:48PM

02:48PM

02:48PM

02:48PM

13 Q. Now, for example, did you also --

02:48PM

14 MS. MCCONWELL: Your Honor, Hansen Helicopters is
15 not charged in Counts 99 through 110. And so I object to
16 relevance of this objection -- or to this exhibit being
17 discussed with this witness.

02:48PM

02:48PM

02:48PM

02:48PM

18 THE COURT: Okay. Counts 99 through 110. So
19 you're just saying it's irrelevant to your client.

02:48PM

02:49PM

20 MS. MCCONWELL: Relevant to Hansen Helicopters.

02:49PM

21 THE COURT: So would you like a limiting
22 instruction?

02:49PM

02:49PM

23 MS. MCCONWELL: Yes, ma'am.

02:49PM

24 THE COURT: No objection, I'm sure?

02:49PM

25 MS. S. MILLER: No, Your Honor.

02:49PM

Direct - Khamvongsa

1 THE COURT: All right. Ladies and gentlemen of
2 the jury, this particular exhibit, 2914-47, is not relevant to
3 Hansen Helicopters as a defendant, and may be relevant -- I'm
4 sorry? Carmen, it's not admitted? Carmen just corrected me.
5 It's 2900-147. Okay, I said that incorrectly. Let me change
6 that. So 2900-147. Let me repeat that. Strike everything I
7 just said. So ladies and gentlemen, 2900-147 --

8 MS. S. MILLER: 1447, Your Honor. I know it's
9 hard to hear in here.

10 THE COURT: No, it's just -- okay. Let me start
11 again.

12 Ladies and gentlemen of the jury, this exhibit,
13 2900-1447 is not -- should not be used against Hansen
14 Helicopters. It's not relevant to the charges against Hansen
15 Helicopters because Hansen Helicopters are not named in
16 Counts 99 through 110. They may, however, be used --

17 MR. MARTIN: May I make an objection, Your Honor,
18 before --

19 THE COURT: Before I say anything?

20 MR. MARTIN: Yes, Your Honor.

21 THE COURT: So I won't say anything. Go ahead.

22 MR. MARTIN: I didn't mean to interrupt you, but
23 I'd like to ask a question in aid of an objection to the same
24 exhibit.

25 THE COURT: Okay. Go ahead.

VOIR DIRE

BY MR. MARTIN:

Q. Agent *Khamvonska*?

A. Khamvongsa, sir.

Q. I'm sorry. I'm from Oklahoma.

A. You have a great accent, sir.

Q. That's how we say it there.

THE COURT: He has a great accent?

THE WITNESS: Yes. Yes, Your Honor.

BY MR. MARTIN: (CONTINUING)

Q. *Khamvol*sa?

A. Khamvongsa.

Q. Vongsa?

A. Yes.

Q. Okay.

THE COURT: Practice.

THE WITNESS: We'll go with that.

MS. S. MILLER: It's like a "K" sound.

MR. MARTIN: It's got a "K." Vongsa?

THE WITNESS: Khamvongsa. G is a little bit soft.

THE COURT: Vong. Vong. It's got an "N" in there, right?

THE WITNESS: Yeah. Like song, but replace it with a "V" Vong.

Direct - Khamvongsa

1 BY MR. MARTIN: (CONTINUING)

02:50PM

2 Q. Agent.

02:50PM

3 A. That works, Your Honor -- sir. Thank you.

02:50PM

4 Q. Are you familiar with the document that's been
5 introduced, 2900-1446 through the end of the -- through the
6 end of that entire document, just that one document, sir?

02:50PM

02:51PM

02:51PM

7 A. Let me correct you. It's 1447, 2900-1447. You said
8 2900-1446.

02:51PM

02:51PM

9 Q. Actually, I think it starts -- let me go back up to
10 the top. 1441. Oh, I'm sorry. I'm looking at the wrong
11 document. I apologize. Thank you for correcting me.

02:51PM

02:51PM

12 Have you read that entire document, sir?

02:51PM

13 A. Yes.

02:51PM

14 Q. Is John Walker's name mentioned anywhere in that
15 document?

02:51PM

02:51PM

16 A. I don't recall seeing his name in this particular
17 document, but I do recall seeing his name in other --

02:51PM

02:51PM

18 Q. I didn't ask you about other documents. I'm talking
19 about this one right here. Okay?

02:51PM

02:51PM

20 A. Okay.

02:51PM

21 Q. Do you need time to review it?

02:51PM

22 A. I'd have to review the rest of it. But as -- I can't
23 say for sure because there are so many documents. There's
24 over 4 to 5,000 documents.

02:52PM

02:52PM

02:52PM

25 Q. I'm just talking about this one document. It's

02:52PM

Direct - Khamvongsa

1 labeled a lease, right?

02:52PM

2 A. Yes. Yes. It's a lease service agreement.

02:52PM

3 Q. And it ends on page 1452; correct, sir?

02:52PM

4 A. I would have to see it.

02:52PM

5 Q. Okay. And I -- can it be shown to the witness so he
6 could see the document, Your Honor? Because my next question
7 is, on the very last page, did Mr. Walker sign this document.

02:52PM

02:52PM

8 THE COURT: Okay, so sure. Go ahead.

02:52PM

9 BY MR. MARTIN: (CONTINUING)

02:53PM

10 Q. Can you answer my question, sir?

02:53PM

11 A. Yes, sir.

02:53PM

12 Q. Did Mr. Walker sign this document?

02:53PM

13 A. No, he did not.

02:53PM

14 Q. Okay. And would you take my word if I told you his
15 name is not in there anywhere?

02:53PM

16 A. Um...I would only after reviewing the evidence.

02:53PM

17 Q. All right. I'd ask that he be given the opportunity
18 to review it, Your Honor. It's almost 3 o'clock. Maybe he
19 can do that. And --

02:53PM

20 THE COURT: Sure. Let's do that.

02:53PM

21 MR. MARTIN: Thank you.

02:53PM

22 THE COURT: So you could review it. That would
23 be fair. All right, ladies and gentlemen of the jury, I have
24 a call at 3 o'clock, let me try to get on my call right now,
25 so I should be back at 3:20. Please keep an open mind. Do

02:53PM

1 not form or express any opinion on this case until it's 02:53PM
2 submitted to you. I'll see you after your afternoon break. 02:53PM
3 Please rise for the jury. 02:53PM

4 (Jury out at 2:52 p.m.) 02:53PM

5 THE COURT: We're outside the presence of the 02:54PM
6 jury. Are you trying to have 2900-1447 through 1452 in its 02:54PM
7 entirety be admitted? 02:54PM

8 MS. S. MILLER: It's already admitted, Your 02:54PM
9 Honor. 02:54PM

10 THE COURT: Oh, it's already been admitted? 02:54PM
11 Okay. That's right. You did say that. Okay. That's fine. 02:54PM
12 Thank you. So you want to review it? Can you review it. 02:54PM

13 THE WITNESS: Sure, I can review. 02:54PM

14 MS. S. MILLER: I'll show it to him on my 02:54PM
15 computer. 02:54PM

16 THE WITNESS: Thank you, Your Honor. 02:54PM

17 THE COURT: Okay, thank you. 02:54PM

18 (Recess taken at 2:54 p.m.) 02:54PM

19 (Back on the record at 3:50 p.m.) 03:50PM

20 THE COURT: We'll call in the jury, oh, no, let's 03:50PM
21 get ready. Ready? 03:50PM

22 (Pause.) 03:50PM

23 THE COURT: We'll call in the jury. You guys 03:50PM
24 ready to go? 03:50PM

25 MR. MARTIN: Yes, Your Honor. 03:50PM

1 THE COURT: Okay. There you go. Let's call in
2 the jury. Sorry that took longer than I thought. There is
3 not enough hours in the day with this trial.

4 MS. S. MILLER: Your Honor, can we address one
5 thing before we bring in the jury, actually?

6 THE COURT: Make it fast because they're coming.

7 MS. S. MILLER: So because Your Honor issued a
8 limiting instruction with respect to Hansen Helicopters, I
9 think it's a waste of time for Hansen Helicopters to continue
10 objecting to this evidence since you've already issued that
11 limiting instruction. So could we perhaps --

12 THE COURT: Well, I think it depends on what the
13 objection is. The objection was relevance, so we had to talk
14 about it. If --

15 MS. S. MILLER: But if we're talking about counts
16 that are not even -- that Hansen Helicopters isn't even
17 involved in, why is she objecting to relevance?

18 THE COURT: Well, she doesn't want -- she wants
19 to make sure that it's not -- there is a limiting instruction
20 as to the -- to any particular piece of evidence. She's --

21 MS. S. MILLER: Standing objection so we don't
22 have to keep doing it for every piece of evidence with this
23 witness.

24 THE COURT: She has to preserve her objection or
25 she's out of luck in the appellate court.

Direct - Khamvongsa

1 MS. MCCONWELL: That's right. 03:51PM

2 THE COURT: I mean, if it's a different exhibit, 03:51PM
3 she must preserve her specific objection or they're going to 03:52PM
4 say you waived it. That's why. 03:52PM

5 MS. S. MILLER: What about as to exhibits that 03:52PM
6 are already admitted? 03:52PM

7 THE COURT: Well, she's talking about it's 03:52PM
8 irrelevant, though. It may be admitted, but it's irrelevant 03:52PM
9 to the testimony of the witness so she can still make a 03:52PM
10 relevancy objection. So your request is denied. 03:52PM

11 MS. S. MILLER: Okay. 03:52PM

12 (Pause.) 03:52PM

13 THE COURT: What are you practicing? 03:53PM

14 MR. MARTIN: Khamvongsa. 03:53PM

15 THE COURT: Just write it down phonetically. 03:53PM

16 MR. MARTIN: How is that? 03:53PM

17 THE WITNESS: It was very close. 03:53PM

18 THE COURT: Practice. It's Khamvongsa. 03:53PM

19 THE WITNESS: Vongsa. 03:53PM

20 THE COURT: Just do phonetics. 03:53PM

21 THE WITNESS: The occasional "hey you" works, 03:53PM
22 too, sir. 03:53PM

23 THE COURT: What's that? 03:53PM

24 THE WITNESS: Hey you. 03:53PM

25 THE COURT: Hey. Just write it down. 03:53PM

Direct - Khamvongsa

1 MR. MARTIN: I've written it down about five
2 different times, Judge.

3 THE COURT: I know, but do it phonetically.

4 (Jury in at 3:53 p.m.)

5 THE COURT: Please be seated. Welcome back,
6 ladies and gentlemen of the jury. Even for me to remember
7 tail rotor pitch change link, that's very difficult. Go
8 ahead.

9 MR. MARTIN: Agent Khamvongsa. Close?

10 THE COURT: Give him a lesson.

11 MR. MARTIN: Help me out here.

12 THE WITNESS: It's Khamvongsa. G is a little
13 softer.

14 MR. MARTIN: Khamvongsa.

15 THE WITNESS: Yes, sir.

16 THE COURT: Very good.

17 BY MR. MARTIN: (CONTINUING)

18 Q. Agent Khamvongsa, do you recall the question I asked
19 you before we took the recess, sir?

20 A. Yes, sir.

21 Q. And did you have an opportunity during the recess to
22 review 2900-1447, sir?

23 A. Yes, sir.

24 Q. And did you find the name "Jon Walker" anywhere in
25 that document, sir?

Direct - Khamvongsa

1 A. No, sir.

03:55PM

2 MR. MARTIN: I object, Your Honor, to the
3 introduction of that document on the basis of relevance.

03:55PM

4 THE COURT: Can you just pull that exhibit up.
5 What exhibit is that? Is that 1376?

03:55PM

03:55PM

03:55PM

6 MS. S. MILLER: Actually, Your Honor, we can
7 withdraw my question.

03:55PM

03:55PM

8 THE COURT: Withdrawn. Okay. The case -- I'm
9 sorry, exhibit withdrawn. Go to the next question.

03:55PM

03:55PM

10 MS. S. MILLER: Thank you, Your Honor.

03:55PM

11 BY MS. S. MILLER: (CONTINUING)

03:55PM

12 Q. Agent Khamvongsa, I'd like to show you what's been
13 admitted as Exhibit 1252, please. And specifically, page 9, I
14 believe.

03:55PM

03:55PM

03:55PM

15 Now, Agent Khamvongsa, what is this document?

03:56PM

16 A. This is a summary document of the registration for
17 all the aircrafts in this case.

03:56PM

03:56PM

18 Q. Thank you. And if we could zoom in on the entry for
19 N454S, please. Could you please walk the members of the jury
20 through this entry, starting at the bottom to the top, so
21 oldest to newest, please?

03:56PM

03:56PM

03:56PM

03:56PM

22 A. Starting on 6 -- sorry, starting --

03:56PM

23 THE COURT: Can you make it larger, this font
24 size, Mr. --

03:56PM

03:56PM

25 MS. S. MILLER: I don't think so. But why don't

03:56PM

Direct - Khamvongsa

1 we zoom in on everything except the last one, two, three, four
2 five rows. Maybe that'll make it a little bigger. I mean
3 columns. Last four columns. Perfect. Maybe that will be
4 better. Is that better, Your Honor.

5 THE COURT: I can see it better, go ahead.

6 THE WITNESS: Begin?

7 BY MS. S. MILLER: (CONTINUING)

8 Q. Yes, please.

9 A. This is for N454S Serial No. 330454S. And I'm
10 starting at the bottom. 671996, source R. AC Form 8050-1,
11 Hansen Helicopters, Inc., PO Box 9099 Tamuning, Guam 96931.
12 It is -- name of applicant, Hansen Helicopters, Inc., U.S.
13 corporation, Jon Walker, handwritten, Jon Walker.

14 Q. Okay. And then if we go up to the entry for
15 12-21-2007, could you please tell the members of the jury what
16 we're seeing there?

17 A. The date is 12-21-2007. The sources are, it's AC
18 Form 8050-1, Dave's Helicopter Service, Inc., 9102 Lini
19 Highway PMB Port Vila, Vanuatu, Dave's Helicopter Service,
20 Inc. U.S. corporation, Jon Walker, handwritten, Jon Walker.

21 Q. And then without reading every single entry above
22 that, would you agree that the entries above that are
23 consistent with the entry in December 2007, so Dave's
24 continues to be the registered owner?

25 A. That's correct.

Direct - Khamvongsa

1 Q. And Jon Walker continues to be the, let's see,
2 certified and signed by on behalf of applicant?

3 A. That's correct.

4 Q. Okay. Now I'd like to go to Exhibit 2900-1142.

5 THE COURT: Okay. Repeat that. What was that
6 exhibit?

7 MS. S. MILLER: 2900-1142, which has already been
8 admitted, please.

9 BY MS. S. MILLER: (CONTINUING)

10 Q. Special Agent Khamvongsa, what is this document?

11 A. This is a lease agreement.

12 Q. And what is the aircraft identified in this lease
13 agreement?

14 A. N454S.

15 Q. Would you agree that's the same --

16 MR. MARTIN: Your Honor, I object to this
17 testimony. We just had this document up and we objected to
18 it. It's a 2008 document. It doesn't support the summary
19 chart.

20 THE COURT: Okay. Let me look at --

21 MS. S. MILLER: Which summary chart, Counsel?

22 MR. MARTIN: The one you were using a while ago.

23 MS. S. MILLER: This testimony is totally
24 separate from that summary chart. I think he's going back to
25 the PM list summary chart. This is separate now.

Direct - Khamvongsa

1 THE COURT: So it's not connected to the summary 03:59PM
2 chart. 03:59PM

3 MR. MARTIN: Well it's not -- I also submit, Your 03:59PM
4 Honor, it's not connected to Counts 100 through 110. 03:59PM

5 THE COURT: Okay, so Counsel? 03:59PM

6 MS. S. MILLER: I can ask some foundational 03:59PM
7 questions. 04:00PM

8 THE COURT: All right. Very well. Go ahead and 04:00PM
9 do that. 04:00PM

10 BY MS. S. MILLER: (CONTINUING) 04:00PM

11 Q. So Agent Khamvongsa, did you review this document in 04:00PM
12 your investigation of the conspiracy to commit wire fraud? 04:00PM

13 A. Yes. 04:00PM

14 Q. What count is that in the indictment? 04:00PM

15 A. 99. 04:00PM

16 Q. Okay. What is the timeframe alleged in that count? 04:00PM

17 A. 2002 and it's an ongoing conspiracy. 04:00PM

18 Q. So there is no end date? 04:00PM

19 A. None. 04:00PM

20 MS. MCCONWELL: Your Honor. 04:00PM

21 THE COURT: I'm sorry. Yes? What's the 04:00PM
22 objection? 04:00PM

23 MR. MARTIN: The objection is that his summary 04:00PM
24 from the government's trial exhibits says he will be 04:00PM
25 testifying about wire fraud and money laundering, Your Honor. 04:00PM

1 Not conspiracy.

04:00PM

2 THE COURT: Okay, so same objection in terms of
3 notice.

04:00PM

04:00PM

4 MR. MARTIN: Yes, Your Honor.

04:00PM

5 THE COURT: All right. And not include the
6 Count 99, that's what you're saying?

04:00PM

04:00PM

7 MR. MARTIN: Correct. Your Honor.

04:00PM

8 THE COURT: Will you join the objection, Ms.
9 McConwell?

04:00PM

04:00PM

10 MS. MCCONWELL: I am, but I still -- we're still
11 not in the count.

04:00PM

04:01PM

12 THE COURT: So it's not relevant to you anyway.

04:01PM

13 MS. MCCONWELL: Right. It's not relevant so I
14 need a limiting instruction with regard to any testimony about
15 or disregard it with regard to Hansen Helicopters.

04:01PM

04:01PM

04:01PM

16 THE COURT: As it relates to this document and
17 his testimony as it relates to this document.

04:01PM

04:01PM

18 MS. MCCONWELL: Yes, ma'am.

04:01PM

19 THE COURT: Okay. All right. So do you agree
20 with that with regard to -- okay, so.

04:01PM

04:01PM

21 MS. S. MILLER: I do not agree --

04:01PM

22 THE COURT: As far as the limiting instruction.

04:01PM

23 MS. S. MILLER: Sure, Your Honor.

04:01PM

24 THE COURT: All right, ladies and gentlemen of
25 the jury, this exhibit, 2900-1142, which has already been

04:01PM

04:01PM

Direct - Khamvongsa

1 admitted does not have any applicability to Hansen
2 Helicopters. Okay, you may proceed. What's your response,
3 though, as to the Count 99 notice objection made by
4 Mr. Martin?

5 MS. S. MILLER: So as we said earlier, Your
6 Honor, it was a broad general description of what Agent
7 Khamvongsa was going to be testifying about. We said wire
8 fraud charges. That includes conspiracy to commit wire fraud.

9 THE COURT: The Court will overrule the objection
10 and allow the question. Go ahead. You may proceed.

11 BY MS. S. MILLER: (CONTINUING)

12 Q. Thank you, Your Honor. So Agent Khamvongsa, can you
13 tell the jury again what registration number for the aircraft
14 are we dealing with?

15 A. N454 Sierra.

16 Q. You don't need to zoom in, Mr. Leon Guerrero. Thank
17 you.

18 And could you tell the ladies and gentlemen of the
19 jury who is the lessor on this agreement?

20 A. Wilma's Flight Service, Inc.

21 Q. And now you'd agree that that's different from --
22 well, who was listed on the summary chart for registrations as
23 the owner of this aircraft?

24 A. Dave's Helicopter.

25 Q. And you agree that we looked at that, that was true

Direct - Khamvongsa

1 from I think we said December 2007 onward, right?

04:02PM

2 A. Correct.

04:02PM

3 Q. So that would apply here?

04:02PM

4 A. Correct.

04:02PM

5 Q. What's the date here?

04:02PM

6 A. June 27, 2008.

04:02PM

7 Q. Thank you. And could you tell the members of the
8 jury who the fishing company is listed here?

04:02PM

04:02PM

9 A. The lessee or the fishing company on this document is
10 fishing company Friesland N.V. Kaya Flamboyen 11, I believe
11 that's the address.

04:02PM

04:02PM

04:03PM

12 Q. And is Friesland, as a fishing company, in any of the
13 wire fraud counts in the indictment?

04:03PM

04:03PM

14 A. Yes.

04:03PM

15 Q. Now, Agent Khamvongsa, have you had an opportunity to
16 review this lease?

04:03PM

04:03PM

17 A. I've reviewed this and many other leases.

04:03PM

18 Q. Okay. Is Dave's Helicopters mentioned in this lease?

04:03PM

19 A. Dave's Helicopter is not mentioned in this lease.

04:03PM

20 Q. Even though that was the registered owner at this
21 time?

04:03PM

04:03PM

22 A. That's correct.

04:03PM

23 Q. Okay. Now, based on your investigation and also all
24 the testimony you've heard throughout this trial, who was
25 maintaining the helicopters listed in the second superseding

04:03PM

04:03PM

04:03PM

Direct - Khamvongsa

1 indictment?

04:03PM

2 A. Hansen Helicopters.

04:03PM

3 Q. And where is Hansen Helicopters mentioned in this
4 lease?

04:03PM

04:04PM

5 MS. MCCONWELL: Your Honor, I object to any
6 testimony about Hansen Helicopters. We're not in counts 99
7 through 110.

04:04PM

04:04PM

04:04PM

8 THE COURT: Okay. Sustained.

04:04PM

9 BY MS. S. MILLER: (CONTINUING)

04:04PM

10 Q. Agent Khamvongsa, where is the bribe of the
11 airworthiness inspector mentioned in this lease?

04:04PM

04:04PM

12 A. It's not.

04:04PM

13 Q. And if we go down to Section 1, can you please read
14 the sentence to the ladies and gentlemen of the jury about how
15 long the tuna company had to review the aircraft, the sentence
16 beginning in Section 1 with "lessee," please, in the middle of
17 that paragraph.

04:04PM

04:04PM

04:04PM

04:04PM

04:04PM

18 A. "Lessee shall have 24 hours from arrival of aircraft
19 in which to provide lessor with written notification of any
20 defects in the aircraft or its equipment and accessories or in
21 case the pilot is not sufficient capable for his work
22 according to the judgment of the captain of MFV Friesland. In
23 the absence of written notification, lessee agrees it is
24 satisfied with and finds the aircraft and its equipment and
25 accessories to be acceptable."

04:04PM

04:04PM

04:04PM

04:04PM

04:04PM

04:05PM

04:05PM

04:05PM

Direct - Khamvongsa

1 Q. Thank you. And now, turning to Section 5 of the 04:05PM
2 lease agreement, please, which is page 1144 of this exhibit. 04:05PM

3 In Section 5, Agent Khamvongsa, can you please read 04:05PM
4 to the jury the sentence starting with "at." 04:05PM

5 A. "At the sole discretion of the lessor, lessor shall 04:05PM
6 provide a fully qualified and licensed pilot, mechanic or 04:05PM
7 pilot mechanic for flight operations and maintenance of the 04:05PM
8 aircraft. Compensation for professional flying and 04:05PM
9 maintenance services shall be born by the lessor." 04:05PM

10 Q. Where in this lease agreement is there a reference to 04:06PM
11 the pilots not being FAA certificated? 04:06PM

12 A. It's not. There is no reference. 04:06PM

13 Q. Where in the lease is there a reference to the 04:06PM
14 mechanics not being FAA certificated? 04:06PM

15 MR. MARTIN: Objection, Your Honor, both 04:06PM
16 questions were leading. 04:06PM

17 THE COURT: Sustained. 04:06PM

18 MS. S. MILLER: What was the objection? 04:06PM

19 THE COURT: Leading. 04:06PM

20 MR. MARTIN: Leading. 04:06PM

21 THE COURT: Sustained. 04:06PM

22 BY MS. S. MILLER: (CONTINUING) 04:06PM

23 Q. Is there any reference in this agreement to the 04:06PM
24 mechanics not being FAA certificated? 04:06PM

25 A. There is no indication that -- that they are not FAA 04:06PM

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1 certificated.

2 Q. Okay. Now, if we turn to -- if we look here on
3 Section 4, please, could you please read the first paragraph
4 under "indemnification and insurance"?

5 A. The first paragraph?

6 Q. Under Section 4, please. Yes.

7 A. "Lessee agrees to indemnify lessor against all
8 losses, including cost and expenses by reason of claims for
9 injury to or death of persons and loss of damage to property
10 arising from or in any manner connected with negligent
11 possession, use or operation of the aircraft by lessee or its
12 agents during the term of this lease."

13 Q. And you can stop there. Thank you.

14 And the lessee is who again in this contract?

15 A. It's the tuna boat company, Friesland.

16 Q. And the lessor?

17 A. The lessor is Wilma's Flight Services.

18 Q. Thank you. And then can you read the second sentence
19 of the second paragraph of that section, please?

20 A. "It is agreed..."?

21 Q. Yes.

22 A. "It is agreed that the cost of repairs and parts
23 arising from damage to the aircraft, which was caused by
24 negligence or any action of members of the crew of lessee's
25 vessel will be reimbursed to the lessor upon determination of

1 the value thereof."

04:07PM

2 Q. Now let's take a look at Section 6, which is on
3 page 1145. Can you please read Section 6, Repairs and
4 Maintenance to the jury?

04:08PM

04:08PM

04:08PM

5 A. The entirety?

04:08PM

6 Q. At least the first paragraph, please.

04:08PM

7 A. "Lessor shall maintain and repair the aircraft so
8 that at all times, it is in a safe and airworthy condition for
9 the conduct of flight and fish spotting operations. Lessor
10 shall pay all costs for replacements of parts and accessories
11 arising from normal use in flight operations. Lessor shall be
12 entitled to all salvage from used, worn, or broken parts
13 recovered from the aircraft."

04:08PM

04:08PM

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04:08PM

14 Q. Special Agent Khamvongsa, where in that section is
15 there a reference to a machine shop in Oregon making critical
16 parts?

04:08PM

04:08PM

04:08PM

17 A. There is none.

04:08PM

18 Q. Thank you. We can take that exhibit down. Special
19 Agent Khamvongsa, in your role in the investigation, did you
20 ever contact the tuna boat companies?

04:08PM

04:09PM

04:09PM

21 A. Yes.

04:09PM

22 Q. And did you ever issue any subpoenas to those tuna
23 boat companies?

04:09PM

04:09PM

24 A. Yes.

04:09PM

25 Q. What evidence did you receive in response to the

04:09PM

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1 subpoenas?

2 A. They provided copies of payments as well as insurance
3 documents.

4 Q. Okay. I'd like to show you what's been previously
5 marked as Exhibit 102. Please. Do you recognize this
6 document?

7 A. Yes.

8 Q. In very general terms, what is it?

9 A. This is a document that was provided to me from the
10 specific tuna boat company.

11 Q. Okay. At this time, Your Honor, I would move
12 Exhibit 102 into evidence.

13 THE COURT: Counsel? Yes?

14 MS. MCCONWELL: Your Honor.

15 THE COURT: Yes.

16 MS. MCCONWELL: I object to the admission of this
17 document. Hansen Helicopters is not in Counts 99 through 104
18 and it's also hearsay.

19 THE COURT: All right.

20 MS. S. MILLER: It's a business record, Your
21 Honor.

22 THE COURT: Okay.

23 MS. S. MILLER: That's my response to the hearsay
24 objection.

25 THE COURT: Did you lay the foundation for

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1 business records exception?

2 MS. S. MILLER: It was provided in response to
3 the subpoena, yes.

4 THE COURT: Counsel?

5 MS. MCCONWELL: Your Honor, that's not a
6 foundation for a document. It's still -- it doesn't change
7 that Hansen Helicopters is not in Count 99.

8 THE COURT: You have no objection to a limiting
9 instruction?

10 MS. S. MILLER: No, Your Honor.

11 THE COURT: So we don't have to get to the
12 business records exception foundation issue. Ladies and
13 gentlemen of the jury, if Exhibit 102-1 is admitted, you are
14 to disregard that has no bearing whatsoever as to Counts 99
15 through 110 as it relates to the testimony of this witness.
16 All right. Mr. Martin, your objection?

17 MR. MARTIN: May I voir dire the witness, Your
18 Honor?

19 THE COURT: Yes, you may voir dire the witness in
20 aid of an objection.

21 MR. MARTIN: Thank you, Your Honor.

22
23 VOIR DIRE

24 BY MR. MARTIN:

25 Q. Agent, the -- what company is this insurance policy

1 from?

2 A. South Pacific Tuna Company.

3 Q. Okay. And whose insurance policy is this, sir?

4 A. It's for the -- the South Pacific Tuna Company
5 manages several tuna boats. So it pertains to those tuna
6 boats those vessels.

7 Q. So it's not Jon Walker's insurance policy, it is the
8 insurance policy of the South Pacific Tuna Boat Company, sir?

9 A. Yes, and their various tuna boats.

10 Q. So it has nothing with Jon Walker?

11 A. Yes, sir.

12 MR. MARTIN: Relevance, Your Honor.

13 THE COURT: Relevance?

14 MS. S. MILLER: So Your Honor, one of the
15 elements of the --

16 THE COURT: Which exhibit, which count?

17 MS. S. MILLER: It would relate to both 99 and
18 100 through 104.

19 THE COURT: All right. So let me just look at
20 the elements.

21 MS. S. MILLER: Sure.

22 THE COURT: I'll look at 99 in particular. Let's
23 see. I'll go to 99. And I am looking at page -- cite me to
24 the page and line, that's all I care about. Page. Line. And
25 I'll figure out which element. If I can't, I'll ask you.

1 MS. S. MILLER: So Your Honor, I would cite you
2 to page 34.

3 THE COURT: Okay.

4 MS. S. MILLER: Line 5 through 10.

5 THE COURT: First of all, that's not an element.
6 The elements are on 122.

7 MS. S. MILLER: Right. It goes to the intent
8 elements of the defendants and also --

9 THE COURT: I'm sorry, hold on. That's not an
10 element, though. Those are just objects. That's not -- the
11 elements that you have to prove are contained on
12 paragraph 122.

13 MS. S. MILLER: Right. It goes to the intent
14 element of the crime. But the reason this document is --

15 THE COURT: No, no, no, you said it goes to an
16 element. So I just want to find out which element is it going
17 to. So you're saying it's on paragraph 122 are the elements
18 of the crime of conspiracy.

19 MS. S. MILLER: Right.

20 THE COURT: Which element is it, just focus on --

21 MS. S. MILLER: Sure, lines 22 and 23 of page 33?

22 THE COURT: Okay. So it goes to the mental
23 state, the culpable mental state elements.

24 MS. S. MILLER: Yes, Your Honor.

25 THE COURT: Okay. Mr. Martin, goes to the

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1 culpable mental state element.

2 MR. MARTIN: Your Honor, the witness has
3 testified this document has nothing to do with Mr. Walker.
4 It's therefore irrelevant.

5 THE COURT: He did say that. So based on that,
6 the Court will sustain the objection, unless you lay another
7 foundation. So just based on the question and answer that he
8 just responded, the Court will sustain the objection. Next
9 question, if you want to try to --

10 MS. S. MILLER: Sure.

11 THE COURT: -- establish a foundation.

12 MS. S. MILLER: Sure.

13 BY MS. S. MILLER: (CONTINUING)

14 Q. Special Agent Khamvongsa, in your 20 years as a
15 criminal investigator, when you're investigating fraud cases,
16 what types of evidence do you look for in terms of whether
17 there are any victims of the crime?

18 A. Speak directly to the victims that were defrauded or
19 look at pieces of evidence that establishes that this is what
20 they believed they were getting.

21 Q. And why are you -- why do you look into whether a
22 victim might have believed what they were getting?

23 A. It goes to show what's represented to the victim
24 versus the inconsistencies in the evidences. The
25 inconsistencies established by other pieces of evidence.

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1 Q. And what type of evidence do you use to determine
2 whether a victim relied on the representations?

3 A. Can you ask that again?

4 Q. What types of evidence do you review and look for to
5 determine whether the victims of fraud relied on the
6 representations being made by the alleged?

7 A. They could be a variety of evidence, they could
8 include e-mails, it could include additional steps taken by
9 the victims, in believing that this is what they were getting;
10 for example, insurance.

11 Q. What does insurance show?

12 A. The insurance shows the state of mind and why they
13 got it. Why they got it is based upon the premises told to
14 them in regards to a contract.

15 Q. Okay. Taking a step back, specifically with this
16 case where there is helicopters that are being leased to tuna
17 boat companies, what did you look for with respect to the tuna
18 boat companies that would show they relied on the
19 representations made, for example, in the lease agreements?

20 A. What I was looking for specifically was any
21 indication if they believed what they were getting was
22 FAA-compliant, if they met FAA regulations.

23 Q. Meaning, whether the aircrafts were airworthy
24 pursuant to the FAA?

25 A. Correct.

Direct - Khamvongsa

1 Q. What about with respect to pilots and mechanics? 04:16PM

2 A. Again, I was looking at, I was trying to determine 04:16PM
3 whether or not the victims involved believed they were getting 04:17PM
4 FAA-certificated pilots. 04:17PM

5 Q. And did you see any evidence of that in any of the 04:17PM
6 insurance documents? 04:17PM

7 A. I did. 04:17PM

8 Q. What did you see in the insurance documents? 04:17PM

9 A. The insurance documents, itself, required that in 04:17PM
10 order to meet -- 04:17PM

11 MR. MARTIN: Well, Your Honor, I object to him 04:17PM
12 testifying about documents that have not been admitted. 04:17PM

13 THE COURT: Is he going to be talking about this 04:17PM
14 document? 04:17PM

15 MS. S. MILLER: I think he was talking about 04:17PM
16 insurance documents with respect to the ones he received in 04:17PM
17 general, but I would again move this in now with additional 04:17PM
18 foundation laid. 04:17PM

19 THE COURT: Your objection? 04:17PM

20 MR. MARTIN: May I ask another question? 04:17PM

21 THE COURT: You may. 04:17PM

22 BY MR. MARTIN: (CONTINUING) 04:17PM

23 Q. Is your answer still the same, that this insurance 04:17PM
24 policy has nothing to do with Jon Walker, sir? 04:17PM

25 A. Can you restate the question? 04:17PM

1 Q. Do you recall the one I asked a while ago about 04:17PM
2 whether or not this was Jon Walker's insurance policy and your 04:17PM
3 answer was "no," sir? 04:18PM

4 A. So you're asking if this is John Walker's insurance 04:18PM
5 policy? 04:18PM

6 Q. Yes, sir. 04:18PM

7 A. This is not John Walker's insurance policy. 04:18PM

8 Q. And he's not named in the policy? 04:18PM

9 A. He is not named as a holder in this policy. 04:18PM

10 MR. MARTIN: Relevance, Your Honor. 04:18PM

11 MS. S. MILLER: May I ask a couple additional 04:18PM
12 clarifying questions? 04:18PM

13 THE COURT: Sure, go ahead. I mean just based on 04:18PM
14 what he just said, again the Court will sustain the objection, 04:18PM
15 but I'll give you another chance. Go ahead. 04:18PM

16 BY MS. S. MILLER: (CONTINUING) 04:18PM

17 Q. So Special Agent Khamvongsa, what was the subject, 04:18PM
18 what was being insured in these insurance policies? 04:18PM

19 A. The item -- 04:18PM

20 MR. MARTIN: Your Honor, I object to him 04:18PM
21 testifying from the documents. 04:18PM

22 THE COURT: Sustained. Unless it's admitted, he 04:18PM
23 can't talk about it. So objection will be sustained. 04:18PM

24 BY MS. S. MILLER: (CONTINUING) 04:18PM

25 Q. Why would the tuna boat -- what evidence did you 04:18PM

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1 review that indicated in the leases, for example, why the tuna
2 boat companies will be getting their own insurance?

3 MR. MARTIN: To which I object, Your Honor,
4 speculation.

5 BY MS. S. MILLER: (CONTINUING)

6 Q. Let's go back to that lease.

7 THE COURT: Sustained.

8 BY MS. S. MILLER: (CONTINUING)

9 Q. Let's go back to the lease. So could we please pull
10 up 1142, please. I'm sorry, 2900-1142.

11 THE COURT: That's already been admitted, right?

12 MS. S. MILLER: Yes, Your Honor. It's the lease
13 we were just looking at.

14 THE COURT: Okay.

15 MR. MARTIN: Your Honor, if I might enter an
16 objection. The exhibit being pulled up is dated in 2008. The
17 exhibit that we are looking at is dated in 2018. I don't know
18 how the two could be connected. So I object to --

19 THE COURT: Well, let's hear the question, first.

20 MR. MARTIN: Sure.

21 THE COURT: 2900-1142 and let's see. Go ahead.

22 MS. S. MILLER: It's not up yet, Your Honor.

23 THE COURT: All right.

24 BY MS. S. MILLER: (CONTINUING)

25 Q. If we could actually go to Section 4, which might be

1 on the second page. Am I on? I believe it's on the second
2 page, Section 4.

3 So Special Agent Khamvongsa, was there a section
4 about indemnification and insurance in pretty much every lease
5 you reviewed of those 200-plus leases?

6 A. Section 4 was in every lease.

7 Q. Okay. And, again, can you tell the jury what -- who
8 is responsible, if there is any damage to the aircraft during
9 the time of lease?

10 MS. MCCONWELL: Your Honor, I object. I think
11 that misstates what the language says. I think he either
12 needs to read from it. Not paraphrase.

13 BY MS. S. MILLER: (CONTINUING)

14 Q. Okay. So can you please read the first sentence of
15 Section 4 again?

16 MR. MARTIN: Well, Your Honor, again, this is not
17 -- this is in evidence, but it's dated 2008. And what the
18 other exhibit --

19 THE COURT: Objection is relevance?

20 MR. MARTIN: Yes, Your Honor.

21 MS. S. MILLER: And he just stated that same
22 provision is in all the leases he looked at.

23 MR. MARTIN: Well, I think they need to go to a
24 lease that is maybe one of the ones that was used in the
25 indictment, Your Honor. I got the number here, if they need

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1 it.

2 MS. S. MILLER: Well, Your Honor, the conspiracy
3 count is from 2000 to present so this would be implicated in
4 that.

5 MR. MARTIN: It's -- it is, Your Honor, but the
6 exhibit they're trying to introduce is dated 20 -- 2018.

7 THE COURT: Okay. But did you say that -- what
8 did you say about this section in particular, Section 4 as it
9 relates to, I guess, insurance policies?

10 THE WITNESS: This.

11 THE COURT: Generally?

12 THE WITNESS: This section is found in the
13 4,000 pages as it relates to 2900. So it's the same -- it's
14 the same wording, the same --

15 THE COURT: Identical?

16 THE WITNESS: Yes.

17 THE COURT: All right. Did you hear that?

18 MR. MARTIN: I heard what he said, Your Honor,
19 but I respectfully disagree that the language has been the
20 same for over the 20-year period of time. I think we need one
21 that's dated in 2018 and I object.

22 THE COURT: All right. So I think that'll go to
23 the credibility and the weight of the evidence. The Court
24 will overrule the objection and you may answer the question.

25 BY MS. S. MILLER: (CONTINUING)

1 Q. Do you remember the question, Special Agent
2 Khamvongsa?

3 A. No.

4 Q. Can you please read the first sentence of Section 4,
5 indemnification and insurance.

6 A. "Lessee agrees to indemnify lessor against all
7 losses, including cost and expense by reason of claims for
8 injury to or death of persons and loss or damage to property
9 arising from or in any manner connected with negligent
10 possession -- possession, use or operation of the aircraft by
11 lessee or its agents during the term of the lease. Such
12 losses, as seizure by foreign countries resulting from illegal
13 fishing, helicopter landing without lessor's consent and gross
14 negligence, such as destruction of the helicopter by the ship
15 crew members."

16 Q. Now, Special Agent Khamvongsa, if the fishing
17 company, the lessee, agrees to indemnify the lessor, meaning,
18 the helicopter company leasing to the tuna fish -- fishing
19 company, what could the tuna company do to protect itself?

20 A. Get insurance.

21 Q. So let's go back, please, to Exhibit 102. And
22 Special Agent Khamvongsa, this exhibit, is that what -- what
23 you received in response to a subpoena that is evidence of the
24 fishing companies doing just that?

25 A. Yes.

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1 THE COURT: I'm sorry, Exhibit 102, can you pull 04:23PM
2 that up? 04:23PM
3 MS. S. MILLER: Yes. We're working on that, Your 04:23PM
4 Honor. 04:23PM
5 THE COURT: Has that been admitted? 04:23PM
6 MS. S. MILLER: No. That's the insurance policy 04:23PM
7 we're trying to admit. 04:23PM
8 THE COURT: Okay. Hold on. Oh, that's right. 04:23PM
9 Yes? Let's -- go ahead, Mr. Martin. 04:24PM
10 MR. MARTIN: Well, she hasn't asked a question. 04:24PM
11 I'll wait, Your Honor. 04:24PM
12 THE COURT: Next question. 04:24PM
13 BY MS. S. MILLER: (CONTINUING) 04:24PM
14 Q. Yes. Could we turn to page 2 of this document, 04:24PM
15 please. And page 3, please. 04:24PM
16 Special Agent Khamvongsa, in terms of the grand jury 04:24PM
17 subpoena to the tuna boat companies for insurance policies, 04:24PM
18 what was the subject of those insurance policies? What was 04:24PM
19 being insured? 04:24PM
20 MR. MARTIN: Well, Your Honor, I object. This 04:24PM
21 has not been admitted. 04:24PM
22 THE COURT: Sustained. 04:24PM
23 MS. S. MILLER: I'm having trouble understanding. 04:24PM
24 MR. MARTIN: It's not been admitted. 04:24PM
25 THE COURT: Sustained. 04:24PM

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1 BY MS. S. MILLER: (CONTINUING)

04:25PM

2 Q. Why, Special Agent Khamvongsa, did you request by
3 subpoena insurance policies from the tuna companies?

04:25PM

4 A. Determine if they got insurance for the helicopters
5 they leased from Hansen Helicopters or its subsidiaries.

04:25PM

6 Q. And which specific --

04:25PM

7 MS. MCCONWELL: Your Honor, I object. He
8 identified Hansen Helicopters. Hansen is not part of
9 Counts 99 through 105 -- or to 110.

04:25PM

10 THE COURT: All right. Sustained. So disregard,
11 strike the last question and answer. Well, the last answer as
12 it relates to Hansen Helicopters. Next question.

04:25PM

13 BY MS. S. MILLER: (CONTINUING)

04:25PM

14 Q. Sorry, which helicopter are you referencing? How do
15 you know what helicopters you were asking about in terms of
16 the insurance policies with fishing companies?

04:25PM

17 A. How do I know which helicopters are tied to which
18 specific companies?

04:25PM

19 Q. No. Well, sure, yeah. That's a good question.

04:25PM

20 A. The helicopters identified in the registration helps
21 support that Walker or one of the companies in which he's 99%
22 owner of owns and operates the helicopters which are being
23 leased to the tuna boat companies.

04:25PM

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04:26PM

24 Q. And did you see any of those helicopters -- did the
25 subpoena request insurance information for specifically those

04:26PM

04:26PM

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1 helicopters?

04:26PM

2 A. Not specifically those helicopters, just helicopters
3 as it relates to the leases they have with the lessor or the
4 various companies that Jon Walker owns as 99% holder,
5 shareholder.

04:26PM

04:26PM

04:26PM

04:26PM

6 MS. S. MILLER: So at this time, Your Honor, I
7 would move Exhibit 102 into evidence.

04:26PM

04:26PM

8 MR. MARTIN: Same objection, Your Honor.
9 Mr. Walker is not an insured under this policy, it's
10 irrelevant to him. And Hansen is not named in these counts.

04:26PM

04:26PM

04:26PM

11 MS. S. MILLER: May I respond, Your Honor?

04:26PM

12 THE COURT: Yeah.

04:26PM

13 MS. S. MILLER: So the fishing companies listed
14 as -- in the transactions in 100 through 104 are among --

04:26PM

04:26PM

15 THE COURT: I'm sorry, in the Count 100 to 104.

04:27PM

16 MS. S. MILLER: Yes.

04:27PM

17 THE COURT: In the indictment. Go ahead. So let
18 me just go to that. And I see it. Go ahead.

04:27PM

04:27PM

19 MS. S. MILLER: So for example --

04:27PM

20 THE COURT: You don't have to tell me an example.
21 Just say whatever the number is. And so the point is?

04:27PM

04:27PM

22 MS. S. MILLER: So these insurance policies were
23 purchased by the specific tuna boat -- certain of the specific
24 tuna boat companies referenced in those counts.

04:27PM

04:27PM

04:27PM

25 THE COURT: Okay.

04:27PM

Direct - Khamvongsa

1 MS. S. MILLER: In the transactions in those 04:27PM
2 counts. 04:27PM
3 MR. MARTIN: May I respond, Your Honor? 04:27PM
4 THE COURT: Yes. Yes, go ahead. 04:27PM
5 MR. MARTIN: Is the purchaser Sea Global 04:27PM
6 Fisheries, LLC, sir? 04:28PM
7 THE WITNESS: I'm sorry, are you -- 04:28PM
8 MR. MARTIN: Your Honor, I withdraw the question. 04:28PM
9 Your Honor, if you'll look at page -- Exhibit No. G102-2. 04:28PM
10 THE COURT: Okay, let's go to that, G102-2, oh 04:28PM
11 okay. Is this it right here? 102-3 you mean? 04:28PM
12 MR. MARTIN: If we could go to page 2 at the very 04:28PM
13 top. 04:28PM
14 THE COURT: Okay. 102-2. 04:28PM
15 MR. MARTIN: To help highlight, there is a No. 1 04:28PM
16 at the top. If that could be highlighted, it will show you 04:28PM
17 who the insured is, Your Honor. 04:28PM
18 THE COURT: Okay. 04:28PM
19 MR. MARTIN: Right there. And if you will 04:28PM
20 compare that to Counts 100, 101, 102, 103 and 104, that is not 04:28PM
21 one of the companies listed. 04:28PM
22 THE COURT: Okay. 04:29PM
23 MR. MARTIN: I object. 04:29PM
24 THE COURT: So you mean, it's not one of the 04:29PM
25 companies listed in all caps, right? 04:29PM

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1 MR. MARTIN: Right. 04:29PM

2 THE COURT: All caps. 04:29PM

3 MR. MARTIN: In all caps in the counts, yes, Your 04:29PM

4 Honor. 04:29PM

5 THE COURT: From 100 to 104. 04:29PM

6 MR. MARTIN: Yes, Your Honor. 04:29PM

7 THE COURT: Okay. Counsel? 04:29PM

8 MS. S. MILLER: May I ask Special Agent 04:29PM

9 Khamvongsa a couple clarifying question on that. 04:29PM

10 THE COURT: Sure. 04:29PM

11 BY MS. S. MILLER: (CONTINUING) 04:29PM

12 Q. So Special Agent Khamvongsa, in Count 103 of the 04:29PM

13 indictment, there is a wire transfer from Ocean Conquest, LLC. 04:29PM

14 Do you know who is the holding company that owns Ocean 04:29PM

15 Conquest, LLC? 04:29PM

16 A. Ocean Conquest, LLC is owned by South Pacific Tuna 04:29PM

17 Company. 04:29PM

18 Q. Okay. And I'm sorry, go ahead? 04:29PM

19 A. Go ahead. 04:29PM

20 Q. And what about Sea Fox, LLC? 04:29PM

21 A. Sea Fox, LLC is actually one of the many sea -- so a 04:29PM

22 lot of the tuna boat companies start with "sea" and then have 04:29PM

23 a second name to it, but those -- 04:29PM

24 MS. MCCONWELL: Your Honor, I object to the 04:29PM

25 narrative. 04:29PM

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1 THE COURT: Hold on. What's the objection? 04:29PM

2 MS. MCCONWELL: Narrative. 04:29PM

3 THE COURT: No, overruled. He's just trying to 04:29PM
4 explain. Okay, what was the question? Veronica, can you just 04:30PM
5 tell me what the question is? 04:30PM

6 (Whereupon the reporter read back requested 04:30PM
7 portion.) 04:30PM

8 THE COURT: Make that question more specific. 04:30PM

9 BY MS. S. MILLER: (CONTINUING) 04:30PM

10 Q. Sure. So Special Agent Khamvongsa, who is the 04:30PM
11 holding company that owns Sea Fox, LLC, which is in Count 104 04:30PM
12 of the indictment? 04:30PM

13 A. Sea Global Fisheries, LLC. 04:30PM

14 THE COURT: Okay. 04:30PM

15 MS. S. MILLER: So I think that should clarify, 04:30PM
16 Your Honor, the name differentiation. 04:30PM

17 THE COURT: Well, the name of the holding 04:30PM
18 company. Not differentiation because it's not -- it's not a 04:30PM
19 differentiation. It's just a -- I mean, it's different -- 04:30PM
20 okay, anyway, Mr. Martin? 04:30PM

21 MR. MARTIN: Your Honor, if we could go to page 6 04:30PM
22 of that exhibit. 04:30PM

23 THE COURT: Okay. Page 6 of G-102. 04:31PM

24 MR. MARTIN: Under name and address of lessor, 04:31PM
25 Your Honor, Mr. Walker is not named. I still have my 04:31PM

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1 relevancy --

04:31PM

2 THE COURT: Name and address of lessor. Is that
3 under the -- the first?

04:31PM

04:31PM

4 MR. MARTIN: It's on the right side.

04:31PM

5 THE COURT: Right. Okay.

04:31PM

6 MS. S. MILLER: May I respond, Your Honor?

04:31PM

7 THE COURT: Hold on. Hold on. Hold on. Just --

04:31PM

8 okay. Let me go to -- okay, so this says -- I see what that

04:31PM

9 says. Let me go to the other exhibit that you just showed,

04:31PM

10 Mr. Khamvongsa. Khamvongsa. Go ahead. What was the last one

04:31PM

11 you showed?

04:31PM

12 MS. S. MILLER: The last exhibit, Your Honor?

04:31PM

13 THE COURT: Yeah, the last exhibit he just

04:31PM

14 identified.

04:31PM

15 MS. S. MILLER: The lease agreement?

04:31PM

16 THE COURT: Whatever it was. Exhibit G-102-2.

04:31PM

17 MS. S. MILLER: On the second page of this

04:32PM

18 document, Your Honor?

04:32PM

19 THE COURT: Yeah, let's go to 2.

04:32PM

20 MS. S. MILLER: Sure. Would you like us to zoom

04:32PM

21 on it?

04:32PM

22 THE COURT: Okay. So -- okay. The objection

04:32PM

23 will be sustained. Can I say that there is three different

04:32PM

24 names here. There is three different names. There is a name

04:32PM

25 on the indictment, there is a name in G-102-2. And the Court

04:32PM

Direct - Khamvongsa

1 finds there is another name in G-102-6. So the Court will
2 sustain the objection as it -- he has a very specific
3 objection. It's based on that, so the Court will sustain the
4 objection.

5 BY MS. S. MILLER: (CONTINUING)

6 Q. Special Agent Khamvongsa, I'd like to direct your
7 attention to Exhibit 829.

8 A. Yes.

9 Q. Can you remind the jury in the last lease we looked
10 at, who was listed as the lessor?

11 A. Wilma's Flight Services.

12 Q. Am I pointing to it right here?

13 A. I can't see. Oh, yes.

14 Q. Okay. And then can you tell the jury who was listed
15 as the owner of the aircraft in that lease?

16 A. Dave's Walker -- or excuse me, Dave's Helicopter
17 Service.

18 Q. Am I pointing to it here?

19 A. That's correct.

20 Q. Okay. And can you tell the jury please what's the
21 title of this section of this exhibit?

22 A. 30 Vanuatu International Companies.

23 Q. And who is at the top of this column of the document?

24 A. John D. Walker.

25 MS. S. MILLER: May I have a moment, Your Honor?

Direct - Khamvongsa

1 THE COURT: Yes. 04:33PM

2 MS. S. MILLER: Your Honor, could we have a 04:34PM
3 sidebar, please? 04:34PM

4 THE COURT: Sidebar? 04:34PM

5 MS. S. MILLER: Yes, Your Honor. 04:34PM

6 THE COURT: Okay. Let's go. Let's have a 04:34PM
7 sidebar. Oh wait, we can't. This is plugged in? Is this all 04:34PM
8 plugged in? 04:34PM

9 (Discussion with clerk.) 04:34PM

10 THE COURT: No. It's just too much of hassle to 04:34PM
11 have sidebar because it's all plugged in for the COVID 04:34PM
12 situation. 15-minute recess, ladies and gentlemen, or ten 04:34PM
13 minutes. Please rise for the jury. Keep an open mind. It's 04:34PM
14 not yet over. 04:34PM

15 (Jury out at 4:34 p.m.) 04:34PM

16 THE COURT: Go ahead. Yes. You wanted to say 04:34PM
17 something? 04:35PM

18 MS. M. MILLER: Yes, Your Honor. I'm going to 04:35PM
19 speak about this particular issue. It is misleading to leave 04:35PM
20 the Court or the jury with the impression that the defendant 04:35PM
21 has nothing to do with these insurance policies. 04:35PM

22 All of those companies that were named as the, 04:35PM
23 quote, "owner" of those helicopters and all of those 04:35PM
24 helicopters that were listed on that insurance policy are 04:35PM
25 actually in our second superseding indictment. Those 04:35PM

Direct - Khamvongsa

1 helicopters were used in the fraud.

04:35PM

2 THE COURT: But here's the deal, you've got to
3 set the foundation. She's not setting it. The problem is
4 you're not setting up the foundation. Just a minute. Listen.
5 Look, all I have is what's before me. You guys have so much
6 more...background information. What do you call it, anyway
7 you just have more background information than I do.

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8 The issue is, the objection is very specific,
9 he's saying this witness has said, Mr. Walker has nothing to
10 do with the insurance policy. You guys are pointing to the
11 particular indictment, Sea Fox, LLC. Holding company is Sea
12 Global Fisheries, and then you moved down to the next exhibit,
13 I can't remember -- Fox what is it? Fox Start?

04:35PM

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04:36PM

14 MS. S. MILLER: May I explain, Your Honor?

04:36PM

15 THE COURT: No. No. No. Don't explain anything
16 right now because I'm telling you my analysis if you guys
17 listen. So what I hear is you're not setting up the proper
18 foundation. If you don't set it up, but you got all this
19 institutional history and it's not doing me any good. I'm
20 trying to make a ruling based on what you present to me. So
21 all of this is, he says it has nothing to do with Jon Walker's
22 company or Jon Walker's name.

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23 You look -- we're looking at the indictment and
24 he agrees it doesn't say anything about Jon Walker. You're
25 showing me a name of a tuna boat company. You're showing me

04:36PM

04:36PM

04:36PM

1 the name of a holding company. And the third one, what is Fox
2 Star, is it Fox Start?

3 MS. S. MILLER: So --

4 THE COURT: What is that last one?

5 THE WITNESS: Sea Fox.

6 THE COURT: Sea Fox. Okay. What is Sea Fox
7 then.

8 MR. MARTIN: Your Honor, can we excuse the
9 witness, please?

10 THE COURT: No, I just want to know, what you did
11 you testify that last one was.

12 THE WITNESS: Sea Fox is one of the boats that
13 make up Sea Global on the insurance company.

14 THE COURT: Okay. I'm sorry, Sea Fox...okay,
15 just a minute, no, no, no, don't talk. Please. Please. Just
16 let me get through this.

17 MS. S. MILLER: Yes, Your Honor.

18 THE COURT: Sea Fox is listed as a tuna boat
19 company in the indictment 104; correct?

20 THE WITNESS: Yes.

21 THE COURT: That's what I see. Holding company
22 is Sea Global Fisheries, that's what you testified to;
23 correct?

24 THE WITNESS: Yes.

25 THE COURT: Then there was a third one, Fox what?

Direct - Khamvongsa

1 What's the last one?

04:37PM

2 THE WITNESS: Are you thinking about the...um...
3 one of Jon Walker's company Foxtrot?

04:37PM

04:37PM

4 THE COURT: So Foxtrot did you testify -- what
5 was the last exhibit? Let's go to the last exhibit. G --
6 what was the last exhibit that was brought up and you
7 testified and I looked at the -- let's go to the last exhibit.
8 Hold on. Let's go to the last exhibit.

04:37PM

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9 MS. MCCONWELL: Page 6, Your Honor.

04:38PM

10 THE COURT: Okay. Let's go to 102-6, I think
11 that's what it is. Can we go there? Okay. There it is.
12 Okay, so Foxtrot Air, Inc. And it's individual executive
13 director is the lessor, that's what it is, Foxtrot. I was
14 right. Okay. Foxtrot Air. All right. Is the lessor. So
15 all I see here is tuna boat companies says Sea Fox. Holding
16 company is Sea Global Fisheries and lessor is listed as
17 Foxtrot Air. Let's just stop there. Now you can step out.
18 Thank you. But thank you for clarifying. So we've got those
19 three different -- okay. Okay, go ahead.

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20 MS. S. MILLER: So Your Honor.

04:38PM

21 MS. MCCONWELL: Your Honor.

04:39PM

22 THE COURT: Wait till he gets out for a second.
23 Wait. I'm sorry.

04:39PM

04:39PM

24 MS. S. MILLER: If I could answer before Ms.
25 McConwell speaks, Your Honor?

04:39PM

04:39PM

Direct - Khamvongsa

1 THE COURT: Yes. Go ahead. 04:39PM

2 MS. S. MILLER: So Sea Fox is in Count 104 of the 04:39PM
3 indictment. 04:39PM

4 THE COURT: That's right. We just said that. 04:39PM

5 MS. S. MILLER: Right. 04:39PM

6 THE COURT: He just said that. 04:39PM

7 MS. S. MILLER: Then on page 2 of this insurance 04:39PM
8 document, please, if we could go there. I think it's three 04:39PM
9 actually. So Special Agent Khamvongsa testified that the 04:39PM
10 insured on this insuring agreement Sea Global Fisheries is the 04:39PM
11 holding company of the company in Count 104, Sea Fox. 04:39PM

12 THE COURT: I just said that. Go ahead. 04:39PM

13 MS. S. MILLER: So I agree with you there. 04:39PM

14 THE COURT: Okay. Good. 04:39PM

15 MS. S. MILLER: So if we look, before we go on, 04:39PM
16 if we look in 5, No. 5 here, paragraph 5. Would you like us 04:39PM
17 to zoom in on there? 04:39PM

18 THE COURT: Paragraph 5. Go ahead. Let's go to 04:39PM
19 5. 04:39PM

20 MS. S. MILLER: So it says "description of 04:39PM
21 aircraft and aircraft physical damage coverage" and it talks 04:39PM
22 about what this insuring agreement is covering. And it lists 04:40PM
23 N-registered aircraft, which are all in the second superseding 04:40PM
24 indictment. 04:40PM

25 THE COURT: But you didn't bring this to me. 04:40PM

Direct - Khamvongsa

1 This was not --

04:40PM

2 MS. S. MILLER: Well, I couldn't talk about the
3 document.

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04:40PM

4 THE COURT: All right. I know you can't talk
5 about the document, but you could say to the witness to refer
6 -- hold on.

04:40PM

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7 MS. S. MILLER: Sorry.

04:40PM

8 THE COURT: You could have said look at -- so
9 under Item 5 and then specifically which particular helicopter
10 you're discussing, you know what line there. That's -- so
11 this was not part of my analysis.

04:40PM

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12 MS. S. MILLER: I'm sorry, Your Honor.

04:40PM

13 THE COURT: Well, is that not true?

04:40PM

14 MS. S. MILLER: No. You're right. You're right.

04:40PM

15 THE COURT: So -- okay, so you got to understand.
16 I don't know what you're talking about.

04:40PM

04:40PM

17 MS. S. MILLER: Right.

04:40PM

18 THE COURT: Other than what is brought in through
19 the witness. So that's where you're trying to loop in? And
20 which registration number? All of them? All five of them?
21 One, two, three, four, five FAA registration? Or yeah is that
22 what you're saying?

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23 MS. S. MILLER: Yes. And then what's connected
24 on page 6, that Your Honor identified, was you saw the Foxtrot
25 name. If we could please go to page 6.

04:40PM

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Direct - Khamvongsa

1 The COURT: And that's the name of the lessor,
2 the name and address of the lessor is Foxtrot Air?

3 MS. S. MILLER: One of these aircrafts, right.
4 So like the lease agreement that we just identified, Wilma's
5 was the lessor in that lease agreement we looked at, that's
6 also true here. Wilma's, Marlin Bay, Bravo Air, Foxtrot are
7 the lessors of these aircrafts that are being insured by the
8 tuna companies, so they're getting additional insurance.

9 THE COURT: I'm sorry. Okay, I'm not following
10 you right now. I followed you with the other -- the one that
11 you did not show me, paragraph 5. And we'll go back to that.
12 But I'm sorry, what's your argument here on this particular
13 Exhibit 102 dash, what is it? 6?

14 MS. S. MILLER: Right. Sixth page of the
15 insurance agreement. And it just gives additional detail as
16 to the aircraft that had been listed in that last page we
17 looked at.

18 THE COURT: All right. So the relevance is the
19 aircraft? And these aircrafts have already been identified?

20 MS. S. MILLER: Yes. And also, of course, in
21 what's in 829, show all of these name and addresses of the
22 lessors funnels up to Mr. Walker, who is 99.9 percent owner in
23 all.

24 THE COURT: Okay, wait. All the names and
25 addresses of the lessors.

1 MS. S. MILLER: Right the --

04:42PM

2 THE COURT: The 9102 PMB Lini Highway, which is
3 the same address all the way down?

04:42PM

04:42PM

4 MS. S. MILLER: Right. So they're all listed
5 here and then funnel up to Mr. Walker at the top, as the 99.9%
6 owner of all of those companies.

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04:42PM

7 THE COURT: All right. Well now that you've
8 given me a more complete foundation, that makes more sense.
9 But based on what you have said before that, the objection was
10 sustained. Okay. Mr. Walker and Ms. McConwell?

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11 MR. MARTIN: Your Honor, if we could go back up
12 to page Item No. 5?

04:42PM

04:42PM

13 THE COURT: Okay. Let's go to -- the exhibit
14 that she just brought up?

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04:42PM

15 MR. MARTIN: The one that's on the screen.
16 Page 3.

04:42PM

04:42PM

17 THE COURT: This one? Okay. Let's go right
18 here.

04:42PM

04:42PM

19 MR. MARTIN: If we go --

04:42PM

20 THE COURT: 5.

04:42PM

21 MR. MARTIN: Paragraph 5, Your Honor.

04:42PM

22 THE COURT: All right. There we go. So this
23 G-102-3 paragraph 5.

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04:43PM

24 MR. MARTIN: These helicopters are not covered by
25 insurance, Your Honor. There is no coverage for every one of

04:43PM

04:43PM

Direct - Khamvongsa

1 'em, number one. So these aren't insurance policies on these 04:43PM
2 helicopters. These are liability for the boat in case they 04:43PM
3 kill somebody, I believe. And it's still, in spite of what 04:43PM
4 the government may want to say, Mr. Walker is not named as an 04:43PM
5 insured in this insurance policy. 04:43PM

6 MS. MCCONWELL: And RPC 4901 is not mentioned in 04:43PM
7 those counts that's she referred to. 04:43PM

8 MS. S. MILLER: Right. We said the N-numbered 04:43PM
9 aircraft. 04:43PM

10 THE COURT: Actually, you said all of them. I 04:43PM
11 asked you for all of them. You said "yes." 04:43PM

12 MS. S. MILLER: I'm sorry, Your Honor. The 04:43PM
13 N-numbered aircraft is what I thought I had said prior to your 04:43PM
14 question. 04:43PM

15 THE COURT: No, I said all five, you said "yes." 04:43PM
16 So RPC is out, so that's out. But on the other four, the 04:43PM
17 four, one, two, three, four, N, FAA registration number, you 04:43PM
18 heard his argument? That this is not an insurance policy and 04:44PM
19 your position, Ms. Miller? 04:44PM

20 MS. S. MILLER: Right, so if we go to later 04:44PM
21 pages, there are endorsements that modify that. I'm sure 04:44PM
22 you're very familiar with how insurance policies work. So for 04:44PM
23 example -- 04:44PM

24 THE COURT: Don't ever be too sure what a judge 04:44PM
25 knows or doesn't know. 04:44PM

1 MS. S. MILLER: I guess not for aircraft, that's 04:44PM
2 for sure. Right, so to be clear, this is an insurance policy 04:44PM
3 for the tuna boat companies in the instance that something 04:44PM
4 goes wrong with the helicopters that they are leasing, which 04:44PM
5 is why the leasing information is in the insurance policy. 04:44PM

6 THE COURT: Okay. So but based on what you 04:44PM
7 presented me, I mean you're connecting it slowly, slowly, 04:44PM
8 slowly. 04:44PM

9 MS. S. MILLER: I know, it is -- 04:44PM

10 THE COURT: Dribble, trickling, trickling. So 04:44PM
11 yes... 04:44PM

12 MS. MCCONWELL: Well, Your Honor, I object to Ms. 04:44PM
13 Miller having a second and third and fourth and fifth 04:44PM
14 opportunity. 04:44PM

15 THE COURT: Chance? 04:44PM

16 MS. MCCONWELL: Outside, yeah, to try to work out 04:44PM
17 how she's going to try to get this in once the -- have this 04:44PM
18 practice for the jury. I object to that. I think it's 04:45PM
19 extremely prejudicial to Hansen Helicopters because we're not 04:45PM
20 in -- 04:45PM

21 THE COURT: You guys won all the objections in 04:45PM
22 front of jury. But -- so it's not prejudicial because you've 04:45PM
23 won every objection in the front of the jury. 04:45PM

24 MS. MCCONWELL: Well, but we're given her a whole 04:45PM
25 lot of slices of the apple to come back and do this exhibit. 04:45PM

1 And it's going to -- I mean it's unnecessary and it drags us
2 out, so I object.

3 THE COURT: It's a waste of time you're saying.

4 MS. MCCONWELL: It's a waste of time and I
5 object. I object to that.

6 THE COURT: Okay. I mean that's a valid
7 objection. Because you guys -- I mean you haven't -- you're
8 trying to figure how to lay the foundation here.

9 MS. MCCONWELL: I mean, a sidebar was asked for
10 us to have -- I thought -- you know to bring -- a sidebar was
11 requested and a sidebar apparently was requested that we work
12 on how Ms. Miller is going to try to get this in. Anyway, and
13 I object.

14 MS. S. MILLER: Thank you for that, Ms.
15 McConwell. Your Honor --

16 THE COURT: But I think it's true, though. I
17 think you are trying to figure it out as you go along.

18 MS. S. MILLER: Well, it's challenging because as
19 insurance documents work, there is a little bit on one page
20 and then it's modified and endorsement which is modified in
21 another.

22 THE COURT: No excuses. No excuses. You can't
23 -- you cannot say insurance documents are so cumbersome and
24 complicated. Who cares. Everybody knows that. Bottom line
25 is, it's your burden of proof. You got to walk into court and

1 say, Judge, Mr. Khamvongsa, I'm going to show you what's been 04:46PM
2 marked as Prosecutor's Exhibit 1, 2, 3, 4, 5, 102 pages 1, 5, 04:46PM
3 10, whatever and read it and tell me where is it that Jon 04:46PM
4 Walker is involved in here? Really, that's really what you 04:46PM
5 have to say, but you guys are kind of pulling it out. 04:46PM

6 MS. S. MILLER: But then they objected that we're 04:46PM
7 talking about the contents of the document. 04:46PM

8 THE COURT: But you can't talk about the contents 04:46PM
9 of the document until it's admitted. That's a valid 04:46PM
10 objection. You guys made the same objection. That's the 04:46PM
11 rules of evidence. We're going to take a ten-minute recess 04:46PM
12 and I'll come back. And I'll decide, figure out this -- 04:46PM

13 MS. S. MILLER: Your Honor, may I grab the 04:47PM
14 hardcopy of this so you could look at the insurance policy as 04:47PM
15 a whole? 04:47PM

16 THE COURT: I don't -- can I tell you something, 04:47PM
17 you could give me a thousand pages of an insurance policy. 04:47PM
18 All I care about is your foundation for what you're trying to 04:47PM
19 do and your proffer. That's it. You guys can't just -- don't 04:47PM
20 do me a dump because you guys do each other dumps all the 04:47PM
21 time. No, no , no. 04:47PM

22 Focus on exactly what you are -- how are you 04:47PM
23 trying to get in this evidence? I mean, I don't disagree with 04:47PM
24 Ms. McConwell. I mean, this is like, you guys, it's 04:47PM
25 excruciating because you haven't gotten all the documents in 04:47PM

Direct - Khamvongsa

1 order. And you can't give me excuse, like it's too 04:47PM

2 cumbersome, Judge. Because I don't care. And neither -- I 04:47PM

3 shouldn't care how cumbersome it is. 04:47PM

4 What I care about is that we move the trial along 04:47PM

5 and the exhibit numbers should have been already prepped up 04:47PM

6 and lined up for this proffer. It isn't and I agree with Ms. 04:47PM

7 McConwell. 04:47PM

8 So at this point, I do think you're just trying 04:47PM

9 -- you're trying to figure it out. And I mean, it just sounds 04:48PM

10 like it. So I'm going to take a ten-minute recess. I'll come 04:48PM

11 back and I'll make a decision on the objection. 04:48PM

12 (Recess taken at 4:48 p.m.) 04:48PM

13 (Back on the record at 4:56 p.m.) 04:56PM

14 THE COURT: We're back on the record. All 04:57PM

15 Counsels present. Defendants are present. Okay. Yes, Ms. 04:57PM

16 Miller. 04:57PM

17 MS. S. MILLER: Yes, Your Honor, if I could just 04:57PM

18 direct Your Honor to one last page that is crucial for Your 04:57PM

19 Honor to understanding with respect to my proffer? 04:57PM

20 THE COURT: Go ahead. 04:57PM

21 MS. S. MILLER: Just make sure it's up on the 04:57PM

22 screen. Can you see it okay or do you want me to zoom in on 04:57PM

23 that, Your Honor? 04:57PM

24 THE COURT: Yes. Please make it bigger. Just 04:57PM

25 take it as a given, if it's that small of a font, it's really 04:57PM

1 difficult for me to read.

04:57PM

2 MS. S. MILLER: Yes, Your Honor. No problem.

04:57PM

3 THE COURT: So this is exhibit what now? 102-4.

04:57PM

4 MS. S. MILLER: Yes, Your Honor.

04:57PM

5 THE COURT: All right. And what are we looking
6 at?

04:58PM

04:58PM

7 MS. S. MILLER: So the crucial part here is that
8 it says on the third-ish paragraph here, if you saw my dot.
9 Item 9, requirements for the pilot flying the aircraft. And
10 then down here on this line, you'll see that it says "the
11 pilot certificate with necessary ratings each as required by
12 the FAA for each flight."

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13 So what's crucial about this document is it shows
14 that the tuna boat companies believed that these aircrafts
15 were, because of their N registration, were going to have
16 FAA-certificated pilots and mechanics and that these aircraft
17 were airworthy. It specifies FAA.

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18 THE COURT: Okay. And what does that have to do
19 with the -- okay, so what is this endorsement issue then?

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04:58PM

20 MS. S. MILLER: It's just an endorsement that
21 modifies earlier portions of the insurance policy.

04:58PM

04:58PM

22 THE COURT: He could say that, he can testify to
23 that, this witness can testify he knows that for a fact?

04:58PM

04:58PM

24 MS. S. MILLER: Right. Because if you read the
25 whole document as a whole, like I was saying earlier you know,

04:59PM

04:59PM

Direct - Khamvongsa

1 it'll have provision 1. Like this says it modifies. 04:59PM

2 THE COURT: Are you saying that he can testify to 04:59PM
3 that. 04:59PM

4 MS. S. MILLER: Yes, Your Honor. 04:59PM

5 THE COURT: Okay. I still don't -- I'm not sure 04:59PM
6 about the -- okay, I understand what you're saying about this. 04:59PM
7 Anything else? 04:59PM

8 MS. S. MILLER: That's it, Your Honor. 04:59PM

9 THE COURT: Okay. Mr. Martin? Yes, go ahead. 04:59PM

10 MR. MARTIN: Well, Your Honor, that requirement 04:59PM
11 doesn't mean anything. The insurance company, the insurance 04:59PM
12 policy is not valid if those requirements aren't met. It's 04:59PM
13 like if I have an insurance policy for my car that says I've 04:59PM
14 got to have certain restrictions on it, if I don't have it and 04:59PM
15 I'm involved in a wreck, the insurance company isn't going to 04:59PM
16 cover me. This is not something the boat company did, this is 04:59PM
17 a requirement of the insurance company that is not a party to 04:59PM
18 the contracts that they're talking about. As I showed you 04:59PM
19 earlier, Your Honor, there is no insurance on these aircrafts 04:59PM
20 anyway. There is no endorsement. They are not insured. 04:59PM

21 MS. S. MILLER: May I respond, Your Honor? 04:59PM

22 THE COURT: Hold on. What's your objection, Ms. 05:00PM
23 McConwell? 05:00PM

24 MS. MCCONWELL: Well, additionally , the contract 05:00PM
25 that they're trying to tie to this was from 2008 and this is a 05:00PM

1 2018 policy.

05:00PM

2 MS. S. MILLER: No. We're beyond that lease at
3 this point. We're not talking about that lease anymore.

05:00PM

05:00PM

4 THE COURT: What are you talking about then?

05:00PM

5 MS. S. MILLER: We're talking about the aircraft
6 specifically mentioned in this insurance agreement, which are
7 in the second superseding indictment and the fact that these
8 tuna boat companies purchased additional insurance that
9 required the pilots and mechanics to be FAA certificated. And
10 this insurance wouldn't apply if there was evidence that they
11 weren't. So it shows the tuna boat boats believed the
12 representations of what they were getting because it was
13 N-registered --

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14 THE COURT: But what evidence is that the tuna
15 boat companies believed that? What evidence is there of that?

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05:00PM

16 MS. S. MILLER: That's exactly what this
17 insurance agreement shows. Is that if that weren't true, if
18 the aircraft --

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05:00PM

05:00PM

19 THE COURT: No. No. No. Wait. Wait. Wait.
20 I'm sorry. You said that the opportunity tuna boat companies
21 believed that their boats were insured.

05:00PM

05:00PM

05:00PM

22 MS. S. MILLER: They believed that -- no. No,
23 Your Honor.

05:01PM

05:01PM

24 THE COURT: I don't understand what you just said
25 then.

05:01PM

05:01PM

Direct - Khamvongsa

1 MS. S. MILLER: Sorry. They believed that the 05:01PM
2 helicopters they were leasing were N-registered, meaning, U.S. 05:01PM
3 registered with the FAA, which requires pilots to be FAA 05:01PM
4 certified. And it shows they relied on the representations -- 05:01PM

5 THE COURT: Okay, I'm sorry, so who believes 05:01PM
6 that? Who on the tuna boat believes that? The pilots of the 05:01PM
7 tuna boat? 05:01PM

8 MS. S. MILLER: No, this is the holding company 05:01PM
9 of the vessel. 05:01PM

10 THE COURT: No, you're saying somebody believes 05:01PM
11 it. Who believes what? 05:01PM

12 MS. S. MILLER: The tuna companies as a whole. 05:01PM

13 THE COURT: And who testified to that? 05:01PM

14 MS. S. MILLER: That is what this document shows. 05:01PM

15 THE COURT: Okay, no, no, no, this is what -- 05:01PM
16 this is what the document expects to have happened. My 05:01PM
17 question is, who in the tuna boat companies in particular, 05:01PM
18 who's testified that they believe what you're saying that they 05:01PM
19 believe what you're saying they believe? 05:01PM

20 MS. S. MILLER: That's my proffer with respect to 05:01PM
21 this, is it shows they relied, because why would you buy 05:01PM
22 insurance that wouldn't cover you if there weren't 05:01PM
23 FAA-certificated pilots. This is requiring FAA-certificated 05:01PM
24 pilots in order for this insurance to apply. 05:02PM

25 THE COURT: All right. And so how does that 05:02PM

1 relate to the case -- the indictment?

05:02PM

2 MS. S. MILLER: So the helicopters --

05:02PM

3 THE COURT: Which count? Which count?

05:02PM

4 MS. S. MILLER: In the conspiracy in Count 99, we
5 list all the helicopters and all the tuna boat companies.

05:02PM

05:02PM

6 THE COURT: So Count 99 and then that relates to
7 Count 101, 100 to 104 right; is that correct?

05:02PM

05:02PM

8 MS. S. MILLER: Right. And specifically this
9 holding company owns specifically Sea Fox, LLC, also in --

05:02PM

05:02PM

10 THE COURT: So really only Count 199 and 104?

05:02PM

11 MS. S. MILLER: Yes, Your Honor.

05:02PM

12 THE COURT: All right. So Sea Fox. Okay, so
13 therefore, let's talk about Sea Fox then.

05:02PM

05:02PM

14 MS. S. MILLER: So Sea Fox funnels up to Ocean
15 Sea Global Fisheries, which is the insured in this insurance
16 policy.

05:02PM

05:02PM

05:02PM

17 THE COURT: It's a lessor. Sea Global Fisheries
18 is the lessor.

05:02PM

05:02PM

19 MS. S. MILLER: No, that's the lessee. The
20 lessor are the ones that Your Honor noticed on page 6 of this
21 document.

05:02PM

05:02PM

05:02PM

22 THE COURT: Okay. I'm sorry. Sea Fox is the
23 tuna boat. The holding company, I thought, was --

05:02PM

05:03PM

24 MS. S. MILLER: Sea Global Fisheries, which is
25 the person --

05:03PM

05:03PM

Direct - Khamvongsa

1 THE COURT: Sea Global Fisheries, yeah. They're
2 the holding company.

3 MS. S. MILLER: Right.

4 THE COURT: I thought I said that. All right.
5 Go ahead.

6 MS. S. MILLER: Right --

7 THE COURT: And then the lessor, though, is
8 Foxtrot Air.

9 MS. S. MILLER: That's one of the lessors of the
10 helicopters.

11 THE COURT: Well, that's only one we're talking
12 about.

13 MS. S. MILLER: No, it is, Your Honor. So
14 fishing boat buys insurance to cover them in case there is an
15 accident with respect to the helicopters they're leasing from
16 Foxtrot being one of the helicopters they're leasing from,
17 Wilma's being another that they're leasing from --

18 THE COURT: But we're only talking about Foxtrot.
19 So Foxtrot is on there.

20 MS. S. MILLER: Yes. Foxtrot is right here.

21 THE COURT: So we're only talking about Foxtrot
22 because that's all I see here. I don't see Wilma's up here,
23 right now. All I see, what you showed us is Foxtrot, right?

24 MS. S. MILLER: Well, page 6 includes Wilma's, it
25 is confusing but...

Direct - Khamvongsa

1 THE COURT: I'm not confused. I want to make
2 sure I know exactly what you're talking about. So in
3 particular, he was focused on Foxtrot.

4 MS. S. MILLER: Well, part of it is because there
5 is Fox in both the name of one of the --

6 THE COURT: Doesn't matter what it is. He was
7 only focused, well, he was focused on Foxtrot in terms of the
8 question, who is the name of the lessor and the specific
9 lessor was Foxtrot.

10 Now you brought up this other stuff that, okay,
11 which was never brought to me before. Now it's brought during
12 the break. This description of lease property, lease
13 aircraft, that names all the FAA numbers. So this is
14 different. This has not been the subject -- he, meaning, the
15 witness has not been questioned on this. On these. On this
16 description of lease aircraft with all the FAA numbers and the
17 names and address of lessor, other than Foxtrot Air. Okay.

18 You don't have to agree with me because I'm not
19 asking if you agree with me. All right. So okay, so again,
20 the objection is, how is it -- how does this relate to Jon
21 Walker. He says it does not relate to John -- your witness
22 says that.

23 MS. S. MILLER: Right. Well it relates --

24 THE COURT: So if your witness says that, the
25 objection will be sustained.

Direct - Khamvongsa

1 MS. S. MILLER: Yes. But then right after, he 05:05PM
2 testified that Wilma's and Foxtrot all funnel up to Jon Walker 05:05PM
3 through these shell companies. And those are the entities 05:05PM
4 leasing aircrafts that the tuna boat companies are seeking 05:05PM
5 insurance to cover. 05:05PM

6 THE COURT: Okay. So she makes a good point. 05:05PM
7 Your best -- the best objection is, is that Ms. McConwell's 05:05PM
8 objection is that, basically, this has been a lot of wasted 05:05PM
9 time because we're having the prosecution try to figure out 05:05PM
10 their evidence and they trying to go through this excruciating 05:05PM
11 exercise to figure out which Exhibit really counts. 05:05PM

12 MR. MARTIN: I join that, No. 1, Your Honor. 05:05PM

13 THE COURT: So that's the best objection so far, 05:05PM
14 but go ahead. 05:05PM

15 MR. MARTIN: Number 2, Count 104. 05:05PM

16 THE COURT: Yeah, Count 104. I'm looking at it. 05:05PM

17 MR. MARTIN: 2016. 05:05PM

18 THE COURT: Right. 05:05PM

19 MR. MARTIN: Government's Exhibit 102. 2018, two 05:05PM
20 years afterwards. 05:06PM

21 THE COURT: Right. 05:06PM

22 MR. MARTIN: Not tied to Count 104. The 05:06PM
23 government is further, Your Honor, trying to reform a contract 05:06PM
24 because -- and that was one of the arguments that we had that 05:06PM
25 there is -- 05:06PM

1 THE COURT: I haven't heard that in a long time 05:06PM
2 since law school, but go ahead. Contract reformation. 05:06PM

3 MS. S. MILLER: I didn't even know what he said. 05:06PM
4 Reform? 05:06PM

5 THE COURT: Yeah. There is contract reformation 05:06PM
6 in contract law. Go ahead. 05:06PM

7 MR. MARTIN: They're basically trying to make the 05:06PM
8 FAA a party to this contract. And you will recall the 05:06PM
9 testimony of Marvin Reed who said the FAA are not involved in 05:06PM
10 these at all and they don't have anything to do with this. 05:06PM
11 And there is no representation there, Your Honor. 05:06PM

12 MS. MCCONWELL: And, additionally, Your Honor, 05:06PM
13 they're trying to infer intent. And you cannot infer intent. 05:06PM
14 Ms. Miller -- 05:06PM

15 MS. S. MILLER: No, we're showing reliance -- 05:06PM

16 THE COURT: Wait. Wait. Wait. Counsel, please 05:06PM
17 let them make their objections. If you keep doing that, I'm 05:06PM
18 just -- I cannot hear to two people at one time. 05:06PM

19 MS. S. MILLER: I apologize. I'm sorry, Ms. 05:06PM
20 McConwell. 05:07PM

21 THE COURT: Inferring intent. Go ahead. 05:07PM

22 MS. MCCONWELL: They're trying to infer intent 05:07PM
23 and a contract is what a contract is. It's the four corners 05:07PM
24 of the document. What is contained -- what is the language 05:07PM
25 that is contained within the document. So in addition, 05:07PM

1 they're trying to do some type of contract reformation.

05:07PM

2 THE COURT: Wow. She's a business lawyer.

05:07PM

3 MR. MCCONWELL: She is.

05:07PM

4 MS. MCCONWELL: Yes, I am. What they tried to do
5 with the leases.

05:07PM

05:07PM

6 THE COURT: So is my son.

05:07PM

7 MS. MCCONWELL: And with the insurance contracts.
8 They can't -- I mean, they can't do that. And you cannot
9 infer intent.

05:07PM

05:07PM

05:07PM

10 THE COURT: Let me just make my decision right
11 now. All right. The Court will sustain the objection based
12 on the objection made by Ms. McConwell that it's just been --
13 yeah, it's been a waste of the time and prosecution is not
14 ready to present this particular exhibit or this type of line
15 of questioning.

05:07PM

05:07PM

05:07PM

05:07PM

05:07PM

05:07PM

16 So the Court will sustain the objection.
17 Exhibit 102 will not be admitted or allowed to be discussed.
18 Lack of foundation. And it just taken too much time.

05:07PM

05:07PM

05:07PM

19 MS. S. MILLER: With this witness, right, Your
20 Honor?

05:07PM

05:07PM

21 THE COURT: Well, if it's the same objection -- I
22 mean, I don't know, depends on your foundation. Right now
23 with this witness, the answer is objection is sustained. So
24 let's put it this way, it's not forecast the future because I
25 don't know the future other than with this witness.

05:07PM

05:08PM

05:08PM

05:08PM

05:08PM

Direct - Khamvongsa

1 Sustained. Let's go. Call the jury because now we are now at
2 5:07.

3 And FYI, based on the fact that we thought we
4 were going to be done today, I have a 9 o'clock hearing --
5 bankruptcy matter at 9:00 a.m. that I counted on to be
6 available for. And I think I have an 11:30 Pacific Judicial
7 Council executive board budget meeting. Just an FYI, Counsel,
8 because I thought we'd be done today. So that was the only --
9 and reliance on that. I'm going do my best to -- do I have
10 something else?

11 (Discussion with clerk.)

12 THE COURT: Do I have a 7:30 motion on which
13 case? Who? Oh, Joysa Willy. That's just a status hearing,
14 right? What's the motion? Oh, yeah. Yeah. Yeah. That's
15 easy. Okay. Right. Who is that Razzano and? Who is it?
16 Who are the lawyers?

17 (Discussion with law clerk.)

18 THE COURT: Those guys are fast. I'll make it
19 fast, too. That's 7:30 tomorrow morning?

20 THE CLERK: Yes, ma'am.

21 THE COURT: Okay. Please stand. Please rise for
22 the jury.

23 (Jury in at 5:09 p.m.)

24 THE COURT: Please be seated. Welcome back,
25 ladies and gentlemen of the jury. And you may proceed, Ms.

1 Miller.

05:09PM

2 MS. S. MILLER: Thank you, Your Honor.

05:09PM

3 BY MS. S. MILLER: (CONTINUING)

05:10PM

4 Q. Special Agent Khamvongsa, you said you reviewed a lot
5 of bank records, right?

05:10PM

05:10PM

6 A. Yes.

05:10PM

7 Q. About how many different pages of bank records would
8 you say you reviewed?

05:10PM

05:10PM

9 A. Easily 10 to 15,000 pages of bank records, if not
10 more.

05:10PM

05:10PM

11 Q. Okay. So did you review the signature card for
12 Caledonian Agency, Inc.'s bank record?

05:10PM

05:10PM

13 A. Yes.

05:10PM

14 Q. Did you review the signature card page for Hansen
15 Northern Helicopters's bank account?

05:10PM

05:10PM

16 A. Yes.

05:10PM

17 Q. Did you review the signature card page for Hansen
18 Helicopters Inc.'s bank account?

05:10PM

05:10PM

19 A. Yes.

05:10PM

20 Q. What about Wilma's Flight Services' bank account?

05:10PM

21 A. Yes.

05:10PM

22 Q. Was Mr. Walker a signer, an authorized signer on all
23 those cards?

05:10PM

05:10PM

24 A. Yes, as president.

05:10PM

25 Q. Okay. And was there a mailing address of Tamuning,

05:10PM

Direct - Khamvongsa

1 Guam on all those --

05:10PM

2 MS. MCCONWELL: Your Honor, I object to leading.

05:10PM

3 THE COURT: Okay. Sustained.

05:10PM

4 BY MS. S. MILLER: (CONTINUING)

05:11PM

5 Q. What was the mailing address reflected in all those
6 signature --

05:11PM

05:11PM

7 MS. MCCONWELL: I also object that this is
8 cumulative.

05:11PM

05:11PM

9 MS. S. MILLER: I don't think we discussed --

05:11PM

10 MS. MCCONWELL: Ms. Jones testified about the
11 signature cards. I think it's cumulative.

05:11PM

05:11PM

12 THE COURT: Same signature card.

05:11PM

13 MS. MCCONWELL: Yes.

05:11PM

14 THE COURT: All right. If that's the case, if
15 it's the same signature card and if Jones did testify to that,
16 then the objection will be sustained. If they're different
17 signature card, you can ask the question.

05:11PM

05:11PM

05:11PM

05:11PM

18 BY MS. S. MILLER: (CONTINUING)

05:11PM

19 Q. I'd like to turn your attention to Exhibit G-2898.
20 2898, please. Could we publish to the jury, please?

05:11PM

05:12PM

21 THE COURT: That's already been admitted.

05:12PM

22 MS. S. MILLER: Yes, Your Honor.

05:12PM

23 THE CLERK: I'm just verifying.

05:12PM

24 MS. MCCONWELL: Only certain pages of this
25 document have been admitted.

05:12PM

05:12PM

Direct - Khamvongsa

1 THE COURT: So whichever pages -- whichever pages
2 have been admitted may be published.

3 MS. MCCONWELL: And I would also object that it's
4 cumulative. Ms. Jones testified about this document and as
5 well.

6 THE COURT: Are you going to ask her -- ask him
7 something different from Ms. Jones because if that's --

8 MS. S. MILLER: Yes, Your Honor. After this --
9 after talking about this first page, I'm going to go to a page
10 that we didn't cover with Ms. Jones.

11 THE COURT: Okay. Very well. So to that extent
12 go ahead and proceed.

13 BY MS. S. MILLER: (CONTINUING)

14 Q. Thank you. So Special Agent -- could we publish
15 please? Page 1?

16 THE CLERK: One moment.

17 BY MS. S. MILLER: (CONTINUING)

18 Q. Special Agent Khamvongsa, which account is this --
19 the corporate signature card page for?

20 A. Wilma's Flight Services, Inc.

21 Q. Okay. And what's the date on this document?

22 A. 11/3/2017.

23 Q. Okay. And on page -- can we go to page 16, please.
24 Special Agent Khamvongsa, what's the date on this check?

25 MS. MCCONWELL: Your Honor, this is cumulative.

Direct - Khamvongsa

1 This was gone over completely with Ms. Jones.

05:13PM

2 MS. S. MILLER: And I'm going to ask him
3 questions about this that were not asked of Ms. Jones.

05:13PM

05:13PM

4 THE COURT: Very well. You may proceed.

05:13PM

5 THE WITNESS: 2/7/2018.

05:13PM

6 BY MS. S. MILLER: (CONTINUING)

05:13PM

7 Q. Okay. You work for the IRS, right, Special Agent
8 Khamvongsa?

05:13PM

05:13PM

9 A. Yes.

05:13PM

10 Q. Can you tell the ladies and gentlemen of the jury
11 what actions you took on behalf of the IRS shortly after this
12 check?

05:13PM

05:13PM

13 A. Actually.

05:14PM

14 Q. Or before?

05:14PM

15 A. Actually, before this check, I obtained a seizure
16 warrant and seized approximately \$4.6 million.

05:14PM

05:14PM

17 Q. From?

05:14PM

18 A. From accounts belonging to Jon Walker and the
19 subsidiary companies, including Caledonian Agency, Inc.,
20 including Hansen Northern Helicopters and Hansen Helicopters
21 as well as Walker Agricola.

05:14PM

05:14PM

05:14PM

05:14PM

22 Q. Could you tell the ladies and gentlemen of the jury
23 what Walker Agricola is?

05:14PM

05:14PM

24 A. It is a bank account and Walker, Jon Walker is the
25 sole signer of that bank account.

05:14PM

05:14PM

Direct - Khamvongsa

1 Q. Is it a corporate account or a personal account? 05:14PM

2 A. It appears to be a business account. 05:14PM

3 Q. Okay. Now, I'd like to go to page 14, please? Now, 05:14PM
4 Special Agent Khamvongsa, do you see the transaction -- well 05:15PM
5 first of all, what are we looking at here in terms of deposits 05:15PM
6 versus payments going out? 05:15PM

7 A. These are wire transfer credits or deposits going or 05:15PM
8 going into the account Wilma's Flight Services, Inc., and it's 05:15PM
9 identified by the word *additions* at the top of the header 05:15PM
10 above the dollar amounts. 05:15PM

11 Q. Thank you. And if we look at the wire transfer 05:15PM
12 company coming into this account on July 27th, in the amount 05:15PM
13 of 299,000 and change, do you recognize the name of where that 05:15PM
14 wire transfer is coming from? 05:15PM

15 A. I see in the name Pacific Spotters Corporation and I 05:15PM
16 do -- I am aware of a Pacific Spots Corporation that was 05:15PM
17 opened. 05:16PM

18 MS. MCCONWELL: Your Honor, this is beyond the -- 05:16PM
19 nonresponse and narrative. 05:16PM

20 THE COURT: Okay. Sustained. 05:16PM

21 BY MS. S. MILLER: (CONTINUING) 05:16PM

22 Q. Okay. Could you tell the members of the jury what 05:16PM
23 you know, based on your investigation, about Pacific Spotters? 05:16PM

24 A. Pacific.Spotters corporation was opened in the 05:16PM
25 Philippines in 2018. 05:16PM

Direct - Khamvongsa

1 MR. MARTIN: Your Honor.

05:16PM

2 THE COURT: Yes?

05:16PM

3 MR. MARTIN: I object. My recollection is
4 Pacific Spotters is not named anywhere in this indictment and
5 I object on the base of relevancy.

05:16PM

05:16PM

05:16PM

6 THE COURT: Is it named in the indictment?

05:16PM

7 MS. S. MILLER: No, Your Honor, but it formed --
8 it was part of his investigation was looking --

05:16PM

05:16PM

9 MR. MARTIN: I object to the narrative then, Your
10 Honor.

05:16PM

05:16PM

11 MS. S. MILLER: It's part of the records he
12 reviewed for -- -

05:16PM

05:16PM

13 MR. MARTIN: I object to a narrative.

05:16PM

14 THE COURT: Okay. So in terms of relevance to
15 the indictment, that's their objection. If it's not relevant
16 to the indictment, then the Court will sustain the objection
17 on that ground.

05:16PM

05:16PM

05:16PM

05:16PM

18 BY MS. S. MILLER: (CONTINUING)

05:16PM

19 Q. Okay. Mr. Khamvongsa, Agent Khamvongsa, with respect
20 to the Count 99, conspiracy to commit wire fraud, can you just
21 generalize for the jury the types of information you reviewed
22 within the bank records related -- and how it relates to that
23 count?

05:16PM

05:16PM

05:17PM

05:17PM

05:17PM

24 A. I've reviewed foreign bank account records, I
25 reviewed bank records here from financial institutions here

05:17PM

05:17PM

Direct - Khamvongsa

1 within Guam, which include Bank of Hawaii, Community First
2 Guam Federal Credit Union, I also looked at articles of
3 incorporation as it relates to Jon Walker being president and
4 majority shareholder, which includes Pacific.Spotters
5 Corporation as well as Hansen Helicopters --

6 MR. MARTIN: Your Honor, I object, I mean the
7 answer is directly in violation of the Court's order relating
8 to Pacific Spotters, Your Honor, and I object it's not named
9 in the indictment.

10 THE COURT: Okay. Sustained.

11 BY MS. S. MILLER: (CONTINUING)

12 Q. Special Agent Khamvongsa, around the time of that
13 wire transfer from Pacific Spotters, what else do you know --

14 MR. MARTIN: Your Honor... I have objected to
15 this three times now.

16 MS. S. MILLER: I'm asking what else he knows.

17 THE COURT: So --

18 MS. MCCONWELL: Hansen joins.

19 THE COURT: So with regard to Pacific Spotter
20 questions, the Court will sustain the objection. Move on to
21 the next question.

22 BY MS. S. MILLER: (CONTINUING)

23 Q. Okay. So around the time of July 27, 2018, could you
24 please tell the jury what else you know based on your
25 investigation occurred during that time?

Direct - Khamvongsa

1 A. Limey Air Service Incorporated was opened with
2 Community First Guam Federal Credit Union. In addition,
3 additional bank accounts were opened in the Philippines.

4 Q. Were any banks -- what if any bank account were
5 closed shortly before that timeframe?

6 A. Actually, the bank accounts with Bank of Hawaii for
7 Caledonian Agency, Inc., for Wilma's Flight Services, for
8 Hansen Northern Helicopters and Hansen Helicopters closed
9 August 1st of 2018.

10 Q. And what, if anything, happened with respect to this
11 case in May of 2018?

12 A. This case was indicted in May of 2018.

13 Q. Now, I'd like to go to Exhibit 2939, please. And I'd
14 like to first start with the first page which is already
15 admitted.

16 Special Agent Khamvongsa, what is this?

17 A. This is a member application card from Community
18 First Guam Federal Credit Union, which I obtained from -- via
19 grand jury subpoena and it's for Limey Air Service, Inc.

20 Q. Based on your review of all the documentation you
21 received on Limey Air Service --

22 MS. MCCONWELL: Your Honor, I object to this as
23 being cumulative. Ms. Jones went over this signature card and
24 this exhibit as well.

25 MS. S. MILLER: I'm going ask him other questions

Direct - Khamvongsa

1 than the ones I asked Ms. Jones, Your Honor.

2 THE COURT: All right. Based on that, go ahead.
3 You may proceed.

4 MS. S. MILLER: Thank you.

5 BY MS. S. MILLER: (CONTINUING)

6 Q. Let me step back.

7 About how many pages, if you could estimate, of bank
8 records did you review with respect to this bank account for
9 Limey Air Services?

10 A. For Limey Air Service, the number of pages is about
11 2500 to 3,000 pages.

12 Q. Okay. And did you see within those pages anything
13 that indicated Mr. Walker's relationship to Limey Air
14 Services?

15 A. Yes, it's in the articles of incorporation, which was
16 part of the account opening.

17 Q. Okay. What was his role as listed in the articles of
18 incorporation, Mr. Walker?

19 A. Well, there is a letter in which he says that he's
20 99.9% owner of Limey Air Services.

21 Q. Okay.

22 A. And that was around the time of 2018.

23 Q. Okay. Now like to go to pages 82 and 83 of this
24 document, which have not yet been admitted.

25 THE COURT: Okay. This is G-2939-18?

Direct - Khamvongsa

1 MS. S. MILLER: I'd like to go to page 82. So
2 2939-82.

3 THE COURT: Oh, 82, okay. Thank you.

4 BY MS. S. MILLER: (CONTINUING)

5 Q. Special Agent Khamvongsa, have you seen this document
6 before?

7 A. Yes.

8 Q. Do you know where it came from?

9 A. It came from Community First Guam Federal Credit
10 Union in pursuant to the grand jury subpoena.

11 MS. S. MILLER: Okay. At this time, Your Honor,
12 I'd move pages 82 and 83 of Exhibit 2939 into evidence.

13 THE COURT: Counsels?

14 MR. MARTIN: May I have just a second, Your
15 Honor?

16 THE COURT: Yup.

17 (Pause.)

18 MS. MCCONWELL: And, Your Honor, while Mr. Walker
19 is reviewing this, I would ask for a limiting instruction
20 again on this. Hansen Helicopters is not part of Counts 99
21 through 110. So any questions, I would ask that you advise
22 that Hansen is not part of that in the limiting. And if you
23 do admit these, that it's not to be used against Hansen
24 Helicopters.

25 THE COURT: All right.

Direct - Khamvongsa

1 MR. MARTIN: May I ask a question? 05:23PM

2 THE COURT: Did you say it's already been 05:23PM
3 admitted, right? 05:23PM

4 MR. MARTIN: No. 05:23PM

5 THE COURT: I'm sorry, it has not. 05:23PM

6 MS. S. MILLER: These two pages have not. 05:23PM

7 MS. MCCONWELL: And the prior one has only been 05:23PM
8 admitted for Mr. Walker. Not for Hansen Helicopters. 05:23PM

9 THE COURT: Okay. Well, admitted for 05:23PM
10 consideration. Yes. Go ahead. 05:23PM

11 MR. MARTIN: May I ask some questions in aid of 05:23PM
12 an object, Your Honor? 05:23PM

13 THE COURT: You may. 05:23PM

14 VOIR DIRE 05:23PM

15 BY MR. MARTIN: (CONTINUING) 05:23PM

16 Q. Agent, I'm looking at what's characterized it looks 05:23PM
17 like as Exhibit A, page 82 of that exhibit and Exhibit B, 82 05:23PM
18 of that exhibit. 05:23PM

19 Are you telling me, that is a bank record kept in the 05:23PM
20 normal course of business at the bank, sir? 05:23PM

21 A. This is what they provided me in response to the 05:24PM
22 grand jury subpoena that I issued. 05:24PM

23 Q. It is not a bank record kept in the normal course of 05:24PM
24 business then? 05:24PM

25 A. It is a bank record that they provided, which is kept 05:24PM

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1 in ordinary course of business.

2 Q. So they keep a running list of specific questions
3 that you asked in a grand jury subpoena?

4 A. This was provided in response to that account and the
5 information that is a summary of what was going on in that
6 account that was done by the bank.

7 Q. The bank prepared this document pursuant to a grand
8 jury subpoena that was issued to them?

9 A. I don't know if they did it in response to the grand
10 jury subpoena, but it was provided in response to a grand jury
11 subpoena.

12 Q. And did the grand jury subpoena ask for a specific
13 list of information, sir?

14 A. The grand jury subpoena asked for all records as it
15 relates to Limey Air Service, Inc.

16 Q. No. I'm talking about relating to pages 82 and 83 of
17 this exhibit?

18 A. This was provided in response to activity that
19 occurred within that account in response to the grand jury
20 subpoena.

21 Q. And that is -- is that same evidence contained in
22 pages 1 through 81 of this exhibit, sir?

23 A. 1 through 81 of this exhibit is a portion of the
24 entirety of the 3,000 -- 25 to 3,000 documents I reviewed from
25 Limey Air Services, Inc., from the Community First Guam

1 Federal Credit Union.

05:25PM

2 Q. And are these page -- are these 2939-82 and 2939-83,
3 are those specific transactions contained within those 3,000
4 documents you reviewed, sir?

05:25PM

05:25PM

05:25PM

5 A. Yes, sir.

05:26PM

6 MR. MARTIN: Your Honor, I object. This is a
7 summary exhibit. I have not been provided the underlying data
8 to authorize me to determine the validity of the information.
9 I object.

05:26PM

05:26PM

05:26PM

05:26PM

10 THE COURT: First of all, is this a summary
11 chart?

05:26PM

05:26PM

12 MS. S. MILLER: No, Your Honor. This was
13 provided as-is from the bank.

05:26PM

05:26PM

14 THE COURT: This was provided as the witness has
15 said?

05:26PM

05:26PM

16 MS. S. MILLER: (Nodded head.)

05:26PM

17 THE COURT: Mr. Martin?

05:26PM

18 MR. MARTIN: Your Honor, this is not -- it's
19 obvious from its face, this is not a bank record kept in the
20 normal ordinary course of business. And I object on that
21 ground.

05:26PM

05:26PM

05:26PM

05:26PM

22 THE COURT: All right. Can you just pull up the
23 -- can you make it larger? All right. Are you trying to
24 bring it under the business records exception. If you are,
25 the objection will be sustained because there is no foundation

05:26PM

05:26PM

05:26PM

05:26PM

1 laid. So go ahead and if you try to figure out, lay a
2 foundation with this witness.

3 MS. S. MILLER: Well, Your Honor, the witness.

4 THE COURT: You said you're bringing it under
5 business records exception. That's what you said you're
6 bringing it under business records exception. That's what you
7 said you're bringing it under. So go ahead and set it up as
8 business records exception. Go ahead.

9 MS. S. MILLER: Well, we stipulated to not have
10 records custodian, first of all.

11 THE COURT: Right.

12 MS. S. MILLER: And this came directly from one
13 of those records custodian from the bank.

14 THE COURT: But did you stipulate to this
15 particular exhibit? You did?

16 MS. S. MILLER: Yes.

17 THE COURT: You both -- you guys stipulated as --

18 MS. S. MILLER: And even from the bank, we
19 obviated the need custodians.

20 THE COURT: Okay. All right. Counsels? Okay.

21 MR. MARTIN: We did not stipulate to this
22 exhibit, Your Honor.

23 MS. S. MILLER: It came from the bank.

24 THE COURT: Hold on. Hold on. Okay. Is this a
25 business record, I mean did you stipulate that certain

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1 business records from a specific bank would obviate the need
2 to get in a records custodian? I think you guys --

3 MS. MCCONWELL: We said they didn't need a
4 records custodian, but did not stipulate to having additional
5 summary charts.

6 MR. MARTIN: And this is not -- this is not a
7 business records, Your Honor. This is something that he did
8 not get from the bank, he got it pursuant to a grand jury
9 subpoena.

10 MS. S. MILLER: I move to strike that comment
11 because he has no --

12 THE COURT: Counsel. Counsel. Please. I cannot
13 hear the objection. Don't move to strike because I don't even
14 know what he just said. Okay. What? Go ahead. You guys,
15 you know what, if I hear that again, I'm going to ban you guys
16 from speaking in my Court. I will tell you that now.

17 I need to hear the specific objection and I need
18 to hear the responses before I make an informed decision.
19 What is the objection, Mr. Martin?

20 MR. MARTIN: Your Honor.

21 THE COURT: Yes? Exhibit?

22 MR. MARTIN: I stipulated to them having -- not
23 required to bring in custodian in. This is not being brought
24 in as a custodian. This is being brought in through this
25 witness as a pursuant to a grand jury subpoena. That's

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1 different.

2 THE COURT: All right. So it's my understanding
3 and correct me if I'm wrong, both of you, let me just start
4 with the defense, that if there were any specific business
5 records from a bank, in particular, the parties would review
6 that and they would say, okay, we do not object, we agree on
7 the authenticity of the documents and that would obviate the
8 need to bring in a business records custodian, that was the
9 general stipulation, right? Agreement?

10 MS. S. MILLER: Yes, Your Honor.

11 THE COURT: That was the agreement, is that
12 right, Mr. Martin?

13 MR. MARTIN: Your Honor, that is right.

14 THE COURT: Okay. So are you saying that this --
15 this document, and let's -- this particular document, what is
16 this again?

17 MR. MARTIN: 2939-82 and 83. And I submit to the
18 Court, those two pages are not business records.

19 THE COURT: So these have not been presented to
20 you as business records for you to have reviewed and you do
21 not review this as bank business records? That's what you're
22 saying.

23 MR. MARTIN: Those two pages, Your Honor.

24 THE COURT: Those two pages. All right. Is that
25 true?

1 MS. S. MILLER: No, Your Honor. This has been on 05:29PM
2 our exhibit list in full since day one. This is -- what about 05:29PM
3 it sounds like Mr. Martin is saying is that he doesn't believe 05:30PM
4 Agent Khamvongsa -- 05:30PM

5 THE COURT: No. No. Don't say what you think he 05:30PM
6 believe -- no, no, no, Ms. Miller. Do not comment, let me -- 05:30PM
7 the attorneys do not need to comment on what you think your 05:30PM
8 opposing side believes. I don't care what you think. I only 05:30PM
9 care about is what your argument is here. 05:30PM

10 The question is, is this a business record from 05:30PM
11 the bank that came from the bank and that was presented to 05:30PM
12 defense Counsel for their review to ascertain whether a chain 05:30PM
13 of custody, I mean I'm sorry, a business record custodian need 05:30PM
14 not be brought in and you said yes. 05:30PM

15 Let me ask you is this, is this a business record 05:30PM
16 that came from the bank directly? 05:30PM

17 THE WITNESS: Yes, Your Honor. 05:30PM

18 THE COURT: Okay. But then the -- the next 05:30PM
19 question is, was that presented to the defense Counsel? 05:30PM

20 MS. S. MILLER: Yes, Your Honor. 05:30PM

21 THE COURT: Mr. Martin? 05:30PM

22 MR. MARTIN: May respond briefly. 05:30PM

23 THE COURT: Yeah. 05:30PM

24 MR. MARTIN: Your Honor, bank records are checks, 05:30PM
25 statements, signature cards, letters, not summary documents 05:31PM

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1 like this. This is a document that was created pursuant to a
2 grand jury subpoena. It is not a business record kept in the
3 normal course of the business, I can go to my bank today and I
4 won't get anything like that looks like this and you can, too.
5 We all can.

6 THE COURT: Okay.

7 MS. S. MILLER: May I respond, Your Honor?

8 THE COURT: Okay. Hold on. Let me just look at
9 this. Okay. Yes, you may respond, Ms. Miller.

10 MS. S. MILLER: So ECF 1516 contains a
11 stipulation which says that they are stipulating to the
12 authenticity and chain of custody of all records and objects,
13 whether seized or obtained through a grand jury subpoena.

14 THE COURT: Okay.

15 MS. S. MILLER: Perhaps this an unusual looking
16 document, but our witness --

17 THE COURT: Never mind. You don't need to
18 comment on that. Just focus on that stipulation. Okay. How
19 do you respond to that? Grand jury subpoena.

20 MR. MARTIN: I was -- I was under the belief,
21 Your Honor, that everything seized was a "business record" and
22 my representation to the Court is this is not a business
23 record because I was led to believe that what was seized by
24 the grand jury were business records.

25 THE COURT: Okay. But the stipulation, though,

1 do you agree with the stipulation?

05:32PM

2 MR. MARTIN: I agree with the stipulation, Your
3 Honor, but we have been given over 3,000 exhibits. There they
4 are. We did our -- I did my best to look at every one of
5 them, but if I missed two pages of the 3,055 exhibits, which
6 encompasses over 30,000 pages, I goofed up and I am sorry,
7 Your Honor. But this is not a bank record, which is what I
8 thought we were stipulating to that was obtained pursuant to a
9 grand jury subpoena.

05:32PM

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05:33PM

10 THE COURT: Okay, but he just testified that this
11 is a business record. And he testified it was obtained
12 through a grand jury. This is what the witness has testified
13 to.

05:33PM

05:33PM

05:33PM

05:33PM

14 MR. MARTIN: He testified he obtained it pursuant
15 to a grand jury subpoena, Your Honor. I would like to voir
16 dire him about --

05:33PM

05:33PM

05:33PM

17 THE COURT: You want to voir dire the witness in
18 aid of an objection on the foundation. Go ahead.

05:33PM

05:33PM

19 VOIR DIRE

05:33PM

20 BY MR. MARTIN:

05:33PM

21 Q. Sir, did you hear me talking about what bank records
22 are earlier?

05:33PM

05:33PM

23 A. Yes.

05:33PM

24 Q. Will you agree that they are statements, sir?

05:33PM

25 A. They are many things.

05:33PM

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1 Q. No, I'm going through them. Statements? 05:33PM

2 A. Statements are one. 05:33PM

3 Q. Signature cards? 05:33PM

4 A. Signature cards are one. 05:33PM

5 Q. Copies of checks? 05:33PM

6 A. Checks are one. 05:33PM

7 Q. Loan documents? 05:33PM

8 A. Loan documents are one. 05:33PM

9 Q. And letters from the bank to you and you to the bank? 05:33PM

10 A. That's another one. 05:33PM

11 Q. All right. This document, 2939-82, and 2989-33 are 05:33PM

12 not document, is not a document that is kept in the normal 05:34PM

13 course of business, is it, sir? 05:34PM

14 A. This is provided by the bank and kept in the ordinary 05:34PM

15 course of business because this was provided to me because 05:34PM

16 they've been tracking that the information that these specific 05:34PM

17 transactions were suspicious. 05:34PM

18 Q. And was that... is it your testimony then, that this 05:34PM

19 is all wire transfers, sir? 05:34PM

20 A. Yes, sir. Wire transfers from the Philippine bank 05:34PM

21 account. 05:34PM

22 Q. And those are required by law -- by law, is that 05:34PM

23 correct, sir? 05:34PM

24 A. It's required by law for banks to establish and 05:34PM

25 anti-money laundering policies within the bank to prevent 05:34PM

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1 criminals or individuals from trying to laundering money.

05:34PM

2 Q. I understand what the law is, sir.

05:35PM

3 A. My apologies.

05:35PM

4 Q. And where -- do you have copy of these? Does the IRS
5 have a copy of these?

05:35PM

05:35PM

6 A. Are you asking if they sent it to me?

05:35PM

7 Q. Yes, sir.

05:35PM

8 A. I did not -- I only got this as a result of the grand
9 jury subpoena, but this was kept during the ordinary course of
10 their business.

05:35PM

05:35PM

05:35PM

11 Q. Aren't all suspicious activities with banks required
12 to be forwarded to some other entity for investigation and
13 follow up, sir?

05:35PM

05:35PM

05:35PM

14 A. There is -- they keep records, their own records
15 within their -- the bank, as well as it's -- it goes to other
16 agencies.

05:35PM

05:35PM

05:35PM

17 Q. Well, one of them is the IRS, isn't it, sir?

05:35PM

18 A. There is a -- it goes to FinCEN.

05:35PM

19 Q. I'm sorry, I couldn't hear you?

05:35PM

20 A. It goes to another agency.

05:35PM

21 Q. And do you have access to that, sir?

05:36PM

22 A. I do.

05:36PM

23 Q. And did you obtain this document from them?

05:36PM

24 A. No, I did not.

05:36PM

25 Q. Do you know whether or not they have this document?

05:36PM

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1 A. I do not know whether or not they have this document. 05:36PM

2 This was provided from the bank as a result -- 05:36PM

3 Q. I heard what you said, sir. 05:36PM

4 A. Okay. Thank you. 05:36PM

5 Q. What was the date of the grand jury subpoena, sir? 05:36PM

6 A. I would have to review it, I don't know. 05:36PM

7 Q. Well, I think it's critical because the date is 05:36PM

8 relevant to the information contained herein. 05:36PM

9 A. Um. I believe it's...can we go to the page 83? It 05:36PM

10 would have been provided sometime around the end of 05:37PM

11 11-25-2019, so it would have been around that timeframe. 05:37PM

12 Q. So the grand jury subpoena would have been prior to 05:37PM

13 11-25 of '19? 05:37PM

14 A. It would have been around 11-25-2019. I can't say 05:37PM

15 for sure because the record stops at that date. So generally 05:37PM

16 when grand jury subpoenas are issued, it says from this date 05:37PM

17 to present. 05:37PM

18 MR. MARTIN: Your Honor, I would like that the -- 05:37PM

19 before further ruling that the copy of the grand jury subpoena 05:37PM

20 be provide to defense Counsel so that we can make an informed 05:37PM

21 objection if one is appropriate. 05:37PM

22 THE COURT: All right. Let me -- okay, that's 05:37PM

23 fine. The Court will allow that. But let me just ask the 05:38PM

24 agent. 05:38PM

25 This particular exhibit, G-2939-82 and 83, was 05:38PM

1 this made in the course -- the regular practice -- I'm sorry,
2 was this made in the course of the business of the bank or was
3 this made for use for this court case?

4 THE WITNESS: This was --

5 THE COURT: Or both? What is it?

6 THE WITNESS: This was not -- this was not
7 developed in response to this court case. This was something
8 that the bank did on its own, during the normal course of
9 business.

10 THE COURT: And so you know for a fact, okay, so
11 just in terms of the -- of business records exception, you
12 know for a fact that this record was made at or near the time
13 this information was transmitted by someone with knowledge, do
14 you know that for a fact?

15 THE WITNESS: Yes.

16 THE COURT: And how do you know that?

17 THE WITNESS: The records custodian is the person
18 that --

19 MS. MCCONWELL: I would object to hearsay.

20 THE COURT: Okay. But -- all right. Maybe I'll
21 talk to him outside the presence of the jury. All right.
22 Ladies and gentlemen, why don't we -- we're going to recess
23 for the day. And I'm just going to talk to this witness.
24 Keep an open mind. I'll see you tomorrow morning at 8:15.
25 Okay. We're not done today.

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1 MS. S. MILLER: Sorry.

05:39PM

2 THE COURT: Keep an open mind. Do not listen to
3 any social media or anybody reporting if it's being reported,
4 okay?

05:39PM

05:39PM

05:39PM

5 (Jury out at 5:39 p.m.)

05:39PM

6 THE COURT: All right. Please be seated. All

05:39PM

7 right. Okay, so just -- let me just say because this is so

05:39PM

8 contentious on whether or not this is a business records

05:39PM

9 exception, I mean, putting aside all this issue of the

05:39PM

10 stipulation and everything, this is like the one document that

05:39PM

11 the two of you have been fighting for. And the Court notes

05:39PM

12 that if a document was calculated for use, essentially in the

05:40PM

13 court system -- for the Court, then it's inadmissible. It's

05:40PM

14 not a business record.

05:40PM

15 MR. MARTIN: And I agree with that, Your Honor.

05:40PM

16 THE COURT: Right. So I'm just trying to

05:40PM

17 ascertain. Go ahead.

05:40PM

18 MR. MARTIN: And I want to look at the subpoena.

05:40PM

19 But also, Your Honor, you've already sustained three separate

05:40PM

20 objections relating to specific -- Pacific Spotters, which is

05:40PM

21 in the -- which is where all these -- every one of the

05:40PM

22 transfers appears to be coming from Pacific Spotters, which is

05:40PM

23 not named in the indictment.

05:40PM

24 THE COURT: Are these all Pacific Spotters issues

05:40PM

25 or transactions?

05:40PM

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1 THE WITNESS: Yes, these are -- this is from 05:40PM
2 Pacific.Spotters, which Walker is president of. 05:40PM

3 THE COURT: Okay. This is from Pacific dot -- 05:40PM
4 Pacific Spotters, all right. And this is -- okay, but I think 05:40PM
5 the objection was, okay, what were you saying then? Yes, 05:40PM
6 right, the Court has sustained that objection. 05:41PM

7 MR. MARTIN: We went over this, I objected that 05:41PM
8 Pacific Spotters is not in the indictment anywhere. And they 05:41PM
9 tried to introduce three separate documents relating, he's 05:41PM
10 testified about it and we had to object. And we are going way 05:41PM
11 outside the indictment with this. 05:41PM

12 THE COURT: Okay. You can take that off, 05:41PM
13 Counsel. All right. Anything -- any other -- so on this 05:41PM
14 issue of Pacific Spotters. What else? 05:41PM

15 MR. MARTIN: I'd like to seen the subpoena, Your 05:41PM
16 Honor. 05:41PM

17 THE COURT: You'll get the subpoena. Who has the 05:41PM
18 subpoena? Do we have it? Do you guys have it? Who has the 05:41PM
19 subpoena? 05:41PM

20 MS. S. MILLER: I'm sure we have a copy. We 05:41PM
21 could get it, Your Honor. 05:41PM

22 THE COURT: Do you have it with you right now? 05:41PM

23 MS. M. MILLER: No. 05:41PM

24 THE COURT: You don't? You don't have it 05:41PM
25 electronically -- 05:41PM

1 MR. MARTIN: They can e-mail. They have my
2 e-mail.

3 THE COURT: Okay. Just e-mail to defense
4 Counsel. All right. What about his Pacific Spotters
5 argument. The Court has sustained that objection. And now
6 you're bringing in a document that is replete with Pacific
7 Spotter transfers. He said it's all of them. So that's a
8 fair objection. How do you respond to that objection?

9 MS. S. MILLER: So Your Honor, this witness has
10 testified that Limey Air Services bank account with Community
11 First Guam was opened, I think, within five months of the
12 first superseding indictment. And then although Mr. Walker's
13 name is not on the signature card, he is the -- you know,
14 there were letters within this same document received from the
15 bank that said that he was, I think he said -- actually, I
16 might want to look at it, but he signed an affidavit under
17 oath saying that he was the 99.9% owner and he was the
18 director of the company related with this bank account. So
19 this is further information that shows the conspiracy. In
20 Count 99.

21 THE COURT: Okay, so I understand that argument.
22 But what about this Spotters -- Pacific Spotters objection
23 made by Counsel? Because your witness just testified that all
24 of these, and correct me if I'm wrong, Agent, but all of the
25 wire transfers deal with Pacific Spotters.

1 MS. S. MILLER: Right. He also testified that
2 Mr. Walker is the owner of it and he's the one named in
3 Counts 99 through 110.

4 MR. MARTIN: And he had testified to it, Your
5 Honor, before I could get my objection out, which you
6 sustained after I objected. And I would ask that the witness
7 be excused, Your Honor.

8 THE WITNESS: Sorry.

9 THE COURT: No, it's okay. I didn't excuse you.
10 Yes, you may be excused. Thank you.

11 THE WITNESS: Thank you.

12 THE COURT: See you tomorrow.

13 THE WITNESS: Thank you, Your Honor.

14 THE COURT: Okay. Yes. Wait. Wait till he goes
15 out.

16 MS. S. MILLER: Sure.

17 THE COURT: Wait till he goes out. Okay. He's
18 out. The double doors. Go ahead.

19 MR. MARTIN: As I said, Your Honor, he did
20 testify about the Pacific Spotters before -- sorry. Before I
21 could get my objection out because that was one of the three
22 objections that I had. Because he was testifying about
23 something that was not contained or outside the scope of this
24 indictment. I mean, we --

25 THE COURT: But does it change the landscape, now

1 that he has evidence or testimony that Mr. Walker is the owner
2 of Pacific Spotters? Should that --

3 MR. MARTIN: Your Honor, I'm here on an
4 indictment that talks about what I'm charged with to defend
5 Mr. Walker. And Pacific Spotters is not anywhere in this
6 indictment and I shouldn't have to, on the 27th day of trial,
7 be having to defend against something that's not in the
8 indictment and we're not required to defend against.

9 MS. S. MILLER: May I respond, Your Honor?

10 THE COURT: Yeah. Go ahead.

11 MS. S. MILLER: So there --

12 THE COURT: So he makes a point. I mean I agree
13 with that.

14 MS. S. MILLER: So there already has been plenty
15 of evidence about Pacific Spotters and the fact that he
16 originally purchased it from defendant Crowe. Also, in a
17 manner and means paragraph of the indictment in the conspiracy
18 to commit wire fraud.

19 THE COURT: Just cite to me.

20 MS. S. MILLER: Yes. Page 37. I'm sorry. The
21 end of 36 into 37.

22 THE COURT: Okay. Just what line.

23 MS. S. MILLER: Line 24 on the last line of
24 page 36.

25 THE COURT: Okay.

1 MS. S. MILLER: It references numerous shell
2 corporations. Pacific Spotters is one of those corporations
3 and was using the same aircraft, the same pilots and mechanics
4 after the first indictment and the bank accounts were closed
5 and moved to the Philippines.

6 So this is relevant information to the fact that
7 the money started coming into the United States account from
8 one of these shell corporations.

9 THE COURT: All right. But he's saying he
10 doesn't have notice that -- he does not have notice --

11 MS. S. MILLER: He had --

12 THE COURT: Just a minute. Listen to what I just
13 -- you guys, you keep forgetting that your institutional
14 history means nothing to me. Zero. All that matters to me is
15 what's brought into this courtroom.

16 MS. S. MILLER: Right.

17 THE COURT: The defense is saying they have no
18 notice in the indictment as to -- in the indictment as to
19 which shell company he has to defend against. That's what he
20 just said. Is that what you said?

21 MR. MARTIN: Yes, Your Honor.

22 THE COURT: And Pacific Spotters is not one of
23 'em.

24 MS. S. MILLER: Their own filing in this case
25 identified Pacific Spotters. So...

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1 MS. MCCONWELL: No, it doesn't. 05:46PM

2 MS. S. MILLER: Yes, it does. 05:46PM

3 MR. MARTIN: I'm not -- 05:46PM

4 THE COURT: I'm sorry, your own exhibit. What
5 exhibit number is that? 05:46PM

6 MS. S. MILLER: This is Exhibit 829. 05:46PM

7 THE COURT: It says Pacific Spotters on it. 05:46PM

8 MS. S. MILLER: I mean I could rattle -- 05:46PM

9 THE COURT: Is that what you just said? 05:46PM

10 MS. S. MILLER: Yes. 05:46PM

11 THE COURT: That's your -- but he's talking about
12 the indictment. 05:46PM

13 MS. S. MILLER: Right. It reference shell
14 corporation. 05:46PM

15 THE COURT: Listen. Listen. Just look at it 05:46PM
16 objectively. Try to -- you probably can't because you 05:46PM
17 represent one side. So does he. But if you look at it from a 05:46PM
18 worldly point -- global point of view. So the defendants can 05:46PM
19 have their organizational chart. That may be so. But what 05:46PM
20 he's defending against is in the indictment. So his objection 05:46PM
21 is, I don't have notice as to which shell -- which shell 05:46PM
22 corporation, i.e., Pacific Spotters, is being discussed here. 05:47PM
23 So. 05:47PM

24 MS. M. MILLER: Your Honor, there is notice in 05:47PM
25 the indictment in the wire fraud counts of the funds coming in 05:47PM

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1 --

05:47PM

2 THE COURT: That's not what -- okay, but she's
3 referring -- no, no, no, Counsel you could say all you want.
4 That's not what Ms. Miller is referring to.

05:47PM

05:47PM

05:47PM

5 MS. M. MILLER: I know.

05:47PM

6 THE COURT: She's asking me -- first of all,
7 listen to this, again you guys -- people -- I don't why you
8 guys are not listening to me. Listen. Manners and means and
9 objects of a conspiracy are not the elements. That's just the
10 theory of the case. When the prosecutor walks into any
11 courtroom and you know this, Ms. Miller.

05:47PM

05:47PM

05:47PM

05:47PM

05:47PM

05:47PM

12 MS. M. MILLER: Yes, I know.

05:47PM

13 THE COURT: Because you are an experienced
14 lawyer. When a prosecutor walks into this courtroom or any
15 federal courtroom or local courtroom, they have to prove the
16 elements of the case.

05:47PM

05:47PM

05:47PM

05:47PM

17 MS. M. MILLER: Yes.

05:47PM

18 THE COURT: You guys are citing to me
19 non-elements. You're citing to me theories.

05:47PM

05:47PM

20 MS. M. MILLER: I was going to the element.

05:47PM

21 THE COURT: Okay. Well, she's not. She did not
22 go to the element. She was going to manners and means.

05:47PM

05:47PM

23 MS. M. MILLER: If you look at the specific
24 counts, forget about the manners and means, look at specific
25 counts.

05:47PM

05:47PM

05:48PM

Direct - Khamvongsa

1 THE COURT: Show us specific count. He's only 05:48PM
2 testifying 99 to 110. Which one is it? 05:48PM
3 MS. M. MILLER: Correct. So Counts 99 to 110 -- 05:48PM
4 THE COURT: Okay, let's go to 99, where are we 05:48PM
5 talking about? 05:48PM
6 MS. M. MILLER: Include transfers into the bank 05:48PM
7 accounts that are specifically identified in the indictment. 05:48PM
8 THE COURT: Okay. Hold on. Hold on. 05:48PM
9 MS. M. MILLER: In the indictment. 05:48PM
10 THE COURT: Count 99, elements. Elements. Okay, 05:48PM
11 through the use of wire transfer, okay, I see that. 05:48PM
12 MS. M. MILLER: Yes. 05:48PM
13 THE COURT: All right. So therefore, continue. 05:48PM
14 So that's 99. 05:48PM
15 MS. M. MILLER: Yes, Your Honor. And then when 05:48PM
16 you go to the specific counts under the conspiracy to commit 05:48PM
17 wire fraud, you see the allegations of transfers of funds 05:48PM
18 coming in and the amount of the transfer of the funds. 05:48PM
19 THE COURT: I see that. What counts? 100 05:48PM
20 through 104. That is what you're talking about? 05:48PM
21 MS. M. MILLER: That's 100 though 104. And then 05:48PM
22 we have the money laundering counts, 105 to 110. 05:48PM
23 THE COURT: No, no, no. Let's just focus on 05:49PM
24 Counts 100 to 104. 05:49PM
25 MS. M. MILLER: Yes, Your Honor. 05:49PM

Direct - Khamvongsa

1 THE COURT: And the only one he talked about is 05:49PM
2 Sea Fox 104. 05:49PM

3 MS. M. MILLER: Yes. 05:49PM

4 THE COURT: All right. 05:49PM

5 MS. M. MILLER: And all of these accounts were 05:49PM
6 involved in the money laundering. What Mr. -- Special Agent 05:49PM
7 Khamvongsa is testifying to is that the funds were passing 05:49PM
8 through multiple accounts to eventually get to Jon Walker. 05:49PM
9 That's the whole basis of his testimony. 05:49PM

10 And the conspiracy to commit wire fraud, which is 05:49PM
11 Count 99, not these specific counts, says from 2000 until this 05:49PM
12 Court said January 7, 2021, the defendants conspired to commit 05:49PM
13 wire fraud. And when you look at those specific allegations, 05:49PM
14 and I'm not talking about the manner and means now, Your 05:49PM
15 Honor, I'm talking about the conspiracy to commit wire fraud. 05:49PM
16 You're looking at Jon Walker being named there. And Jon 05:49PM
17 Walker being identified as a person who participated in the 05:49PM
18 conspiracy to commit wire fraud. 05:50PM

19 The defendants took all of their leases from 05:50PM
20 these companies up here and changed it all to Pacific Spotters 05:50PM
21 Corporation, same helicopters, same airmen, same registration 05:50PM
22 numbers. All they did was change the name of the shell 05:50PM
23 company. And we alleged in the indictment that they used 05:50PM
24 numerous shell companies. We didn't name all the shell 05:50PM
25 companies, but we alleged they used numerous shell companies. 05:50PM

Direct - Khamvongsa

1 THE COURT: And I think he said that. 05:50PM

2 MS. M. MILLER: Yes. 05:50PM

3 THE COURT: He says you did state generally. 05:50PM

4 MS. M. MILLER: Yes. 05:50PM

5 THE COURT: That there are shell companies. What 05:50PM

6 he's saying he doesn't have -- okay, he doesn't have specific 05:50PM

7 notice as to Pacific Spotters. 05:50PM

8 MS. M. MILLER: Two things about Pacific Spotter 05:50PM

9 s-- 05:50PM

10 THE COURT: Wait. Wait. Wait. Wait. Wait. 05:50PM

11 Wait. Let me ask you this. 05:50PM

12 MS. M. MILLER: Yes. 05:50PM

13 THE COURT: He's saying it's not in the 05:50PM

14 indictment that the shell company is Pacific Spotters. Let's 05:50PM

15 put that aside for one second. 05:50PM

16 MS. M. MILLER: Yes. 05:50PM

17 THE COURT: Then you guys are focusing on 05:50PM

18 Count 104, Sea Fox. That's what this witness is talking 05:50PM

19 about. 05:51PM

20 MS. M. MILLER: Yes. 05:51PM

21 THE COURT: Now, how are you putting together Sea 05:51PM

22 Fox equals Pacific Spotters equals Jon Walker? 05:51PM

23 MS. M. MILLER: Because, Your Honor, starting on 05:51PM

24 or about 2013, Pacific Spotters Corporation was originally 05:51PM

25 opened and Pacific Spotters Corporation started being used by 05:51PM

Direct - Khamvongsa

1 the defendants in their fraud.

2 We alleged in the earlier part of the indictment
3 that the defendants were using the Philippine Civil Aviation
4 Authority as one of the ways in which they were defrauding the
5 FAA. We have a lease from Pacific Spotters Corporation that
6 has an N U.S.-registered helicopter that is in the indictment,
7 that the defendants entered into a lease with one of these
8 shell companies in front of you, 829. And then after the
9 first indictment, they changed that lease to Pacific Spotters
10 Corporation and they continued to lease that N-registered
11 helicopter even though they deregistered it to ostensibly
12 export it to the Philippines. So --

13 THE COURT: Okay. All right. So I understand
14 all that. My question, though, is just -- to make the
15 connection, Ms. Samantha Miller is querying the Special Agent
16 on the stand from the IRS.

17 And I guess, I'm trying to ascertain, where has
18 the evidence been that Sea Fox, LLC tuna company with the
19 holding company Sea Global Fisheries with the lessor Foxtrot
20 Air equals Jon Walker and Pacific Spotters, that's the
21 connection.

22 MS. M. MILLER: Yes.

23 THE COURT: That you guys are trying -- I'm not
24 seeing it.

25 MS. M. MILLER: Well, here's the evidence, Your

Direct - Khamvongsa

1 Honor. Exhibit 102, which you said we can't use, that's one
2 piece of it.

3 THE COURT: Well, because you guys didn't set the
4 proper foundation.

5 MS. M. MILLER: I understand. I understand, Your
6 Honor, but you said where is the evidence and did they have
7 notice. That is one way in which they had notice. Another
8 way they had notice were these bank records --

9 THE COURT: Okay. But here's the problem, the
10 witness, your witness, said 102 has nothing to do with Jon
11 Walker.

12 MS. M. MILLER: He did not say that, Your Honor.

13 THE COURT: I thought he did. It's not
14 mentioned.

15 MS. M. MILLER: The question was, is Jon Walker
16 in that document. And he said he is not in that document.
17 But when Ms. Samantha Miller asked him, how is Jon Walker
18 related to this document, he said the registered aircraft, the
19 N numbers in this and these shell companies, the Vanuatu
20 companies, are owned 99.9% by Jon Walker.

21 THE COURT: Okay. But here's the thing. Here's
22 the problem. These -- those particular -- and you know this,
23 the particular helicopter numbers, the N numbers, that was not
24 brought in during the course of the colloquy with this
25 witness.

Direct - Khamvongsa

1 MS. M. MILLER: Yes. 05:53PM

2 THE COURT: To set up the foundation. 05:53PM

3 MS. M. MILLER: Yes. 05:53PM

4 THE COURT: So when I made my decision, I 05:53PM

5 considered that and Ms. McConwell, you know, appropriately 05:54PM

6 said, look, this is a waste of time, the prosecutor just is 05:54PM

7 still trying figure out which evidence. So that's why, I mean 05:54PM

8 it's like I mean so sad because you guys just -- for yourself. 05:54PM

9 MS. M. MILLER: No but -- 05:54PM

10 THE COURT: For yourself because you just didn't 05:54PM

11 have the -- 05:54PM

12 MS. M. MILLER: No. But your question was, did 05:54PM

13 they have notice. And what I'm answering is, Your Honor, they 05:54PM

14 did have notice. 05:54PM

15 THE COURT: Yeah. But my point is, you guys are 05:54PM

16 setting up as you're trying figure out your case. That's the 05:54PM

17 problem. 05:54PM

18 MS. M. MILLER: The problem is this, Your Honor, 05:54PM

19 I actually have a terrible cold and I asked Samantha Miller to 05:54PM

20 manage this witness today. And I'm not making an excuse. 05:54PM

21 THE COURT: No, no, no. 05:54PM

22 MS. M. MILLER: I do have a terrible cold. I 05:54PM

23 feel terrible. I've been taking DayQuil all day. I did rapid 05:54PM

24 COVID tests. I do not have COVID so I'm perfectly fine. 05:54PM

25 THE COURT: Okay. Now you're telling me that you 05:54PM

Direct - Khamvongsa

1 don't have COVID.

05:54PM

2 MS. M. MILLER: No, I don't -- no, no, no, I
3 don't want anybody to be freaked because I have a cold. I
4 have a cold. That's all. But in the eleventh hour, I said
5 could you please handle this.

05:54PM

05:54PM

05:54PM

05:54PM

6 So that's one of the problems here. It's not Ms.
7 Samantha Miller not being prepared. It's not the government
8 not being -- it's that I'm sick and I should be laying in bed
9 somewhere.

05:54PM

05:55PM

05:55PM

05:55PM

10 THE COURT: Okay, let me just say this. Should
11 we take a recess tomorrow. Honestly, let's think about this.

05:55PM

05:55PM

12 MS. M. MILLER: That would be extraordinarily
13 helpful, Your Honor, because I feel terrible.

05:55PM

05:55PM

14 THE COURT: All right. So I am sympathetic to
15 that.

05:55PM

05:55PM

16 MS. M. MILLER: Thank you.

05:55PM

17 THE COURT: I am. If you're sick, you're sick.
18 And honestly, I know what you mean. I was sick last week and
19 I know exactly what you mean. So we will recess tomorrow.
20 How is that?

05:55PM

05:55PM

21 MS. M. MILLER: Thank you, Your Honor. Thank
22 you.

05:55PM

05:55PM

23 THE COURT: And let's come back to this.

05:55PM

24 MS. M. MILLER: Thank you, Your Honor. Thank
25 you.

05:55PM

05:55PM

1 THE COURT: Okay. 05:55PM

2 MR. MARTIN: Have a good evening, Your Honor. 05:55PM

3 THE COURT: Did I forget anything? Emily? Oh. 05:55PM

4 MR. MARTIN: I said have a good evening. 05:55PM

5 THE COURT: Yes, I will always -- I always have a 05:55PM

6 good evening. But Mr. -- wait, wait, wait, oh, Ms. McConwell 05:55PM

7 Mr. McConwell, do we have the -- who was your client? Kapp, 05:55PM

8 Mr. Kapp's waiver, you know -- 05:55PM

9 MS. MCCONWELL: The declaration, yeah, that he 05:55PM

10 will consent to it. He's -- he's sending that back so we'll 05:56PM

11 have that filed. 05:56PM

12 THE COURT: He's consenting to your withdrawal as 05:56PM

13 counsel? 05:56PM

14 MS. MCCONWELL: Yes. 05:56PM

15 THE COURT: Right. That's what we do need to get 05:56PM

16 that before the status hearing. 05:56PM

17 MS. MCCONWELL: Yes. 05:56PM

18 THE COURT: How is he doing by the way? Better? 05:56PM

19 MS. MCCONWELL: He's still in Arizona, but he's 05:56PM

20 out of the hospital so -- 05:56PM

21 THE COURT: Counsel, we will recess. Today is -- 05:56PM

22 today is Wednesday? Okay. This gives me a chance to do my 05:56PM

23 Thursday stuff, but I hope you feel better. 05:56PM

24 MS. M. MILLER: Thank you. 05:56PM

25 THE COURT: And I want to say this to anyone of 05:56PM

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1 you. If you're sick, I know you're away from home, if you're
2 ill and you feel like you need to break, just let me know.

3 MS. M. MILLER: Thank you, Your Honor.

4 THE COURT: Because I'm going to be sympathetic
5 to that. Because I know how it feels to be in trial.

6 MR. MCCONWELL: Your Honor, I'll be speak to
7 Mr. Kapp also.

8 THE COURT: Please speak to Mr. Kapp. Get that
9 to me some time tomorrow.

10 MR. MCCONWELL: He just got out of the hospital.
11 He's been in almost the whole time.

12 THE COURT: Very well. Thank you all. I'll tell
13 the jurors to come back the following day unless you guys tell
14 me otherwise.

15 MS. M. MILLER: Yes. Thank you, Your Honor.

16 THE COURT: Take care.

17 (Proceedings concluded at 5:56 p.m.)

18 * * *

1 August 15, 2022; 8:32 a.m.; Hagatna, Guam 07:49AM

2 * * * 07:49AM

3
4 THE COURT: All right, everyone, welcome back to 07:49AM
5 Guam. Did you all arrive last night or sometime earlier? 08:32AM

6 MS. M. MILLER: Earlier, Your Honor. 08:32AM

7 THE COURT: Earlier? 08:32AM

8 MS. M. MILLER: Yes. 08:32AM

9 THE COURT: Okay, good to know. Well, don't 08:32AM
10 worry, I'm okay, I think. And I took my COVID test. FYI, I'm 08:32AM
11 fine. When we have go to federal court conferences, they make 08:32AM
12 us take it every day. 08:32AM

13 MS. M. MILLER: Wow. 08:32AM

14 THE COURT: Yeah. But we're on the honor system, 08:32AM
15 so we're hoping everybody is telling the truth they don't have 08:32AM
16 it. But -- yeah, but I did take mine and -- and so -- so I'm 08:32AM
17 clear. 08:33AM

18 All right. So we're going to go ahead and begin. 08:33AM
19 Just an FYI before we start, so there is five Government -- 08:33AM
20 four Government motions that are pending, and we're working on 08:33AM
21 those now. The Government's motion for order permitting 08:33AM
22 testimony and evidence of defendant's alter ego shell 08:33AM
23 companies, Government's motion in limine to admit summary 08:33AM
24 charts pursuant to Federal Rule of Evidence 1006, motion to 08:33AM
25 use expert Jeffrey Klang as a summary witness, and defendant's 08:33AM

Direct - Khamvongsa

1 motion in limine concerning testimony of Jeff Guzzetti. So 08:33AM
2 those are -- those are still pending and we're just still 08:33AM
3 working on it, just to let you know for an update. 08:33AM

4 Okay, where were we last? 08:33AM

5 MS. M. MILLER: We're in the middle of the 08:33AM
6 testimony of Mr. Khamvongsa. And as you recall, Your Honor, 08:33AM
7 Mr. Khamvongsa was supposed to be my witness. I was sick that 08:33AM
8 day -- 08:33AM

9 THE COURT: Yeah. 08:33AM

10 MS. M. MILLER: -- and Ms. Samantha Miller 08:33AM
11 started his direct examination, but I'm ready to proceed with 08:33AM
12 his direct examination. 08:33AM

13 THE COURT: Okay. Very well. Yes, Mr. Martin? 08:33AM

14 MR. MARTIN: Are they asking to change lawyers? 08:34AM

15 THE COURT: Well, I think -- you want to get on 08:34AM
16 your mic; repeat that question. 08:34AM

17 MR. MARTIN: My question was, Your Honor, are 08:34AM
18 they asking to change lawyers in mid examinations? 08:34AM

19 THE COURT: Well, probably because maybe she 08:34AM
20 wasn't feeling well, as I recall and -- 08:34AM

21 MS. M. MILLER: That's right. 08:34AM

22 THE COURT: -- I think Samantha Miller went up to 08:34AM
23 assist her. 08:34AM

24 MS. M. MILLER: Step in. 08:34AM

25 THE COURT: Step in, yeah. 08:34AM

Direct - Khamvongsa

1 MR. MARTIN: Because the problem I have, Your 08:34AM
2 Honor, is we didn't find out she was even ill until the end of 08:34AM
3 the day. Had we known it, we could have recessed for the day 08:34AM
4 and she could have done it. We're halfway through this. I 08:34AM
5 object to changing lawyers midstream like this. I mean, no 08:34AM
6 one had notice Ms. Miller was even feeling bad until that -- 08:34AM
7 at least on our side, maybe they did, but that she was even 08:34AM
8 feeling bad until that evening. 08:34AM

9 And then, quite honestly, I wish we had known and 08:34AM
10 then I wouldn't have had to deal with COVID, which I had to 08:34AM
11 deal with, and we could have recessed that day when -- and so 08:35AM
12 I -- I object to changing lawyers midstream. I don't think 08:35AM
13 it's appropriate. I think there is -- you know, the procedure 08:35AM
14 should have been followed. We should have been notified she 08:35AM
15 wasn't feeling well. She shouldn't have been in the courtroom 08:35AM
16 with us that day, and we could have recessed. But to change 08:35AM
17 right now, I just want my objection on the record. 08:35AM

18 THE COURT: Yeah, I'll -- I'll let Ms. Miller 08:35AM
19 speak in a minute, but I guess sometimes -- and I can't tell 08:35AM
20 you this because I personally have never had COVID. I 08:35AM
21 haven't. I've been very fortunate. My entire family has had 08:35AM
22 it. One of them has been in ICU. My grandchild is eight 08:35AM
23 months old. Everybody's had it in my family, but -- and 08:35AM
24 they're all fine. And even a lot of my staff members have had 08:35AM
25 it here even while pretrial, during trial, after trial since 08:35AM

1 our last time. So -- but I do take the test. And I think 08:35AM
2 like many, like even myself, if I start feeling like allergies 08:35AM
3 -- I think it's usually allergies. I'm probably in denial in 08:36AM
4 thinking that, you know, I'm not -- I don't -- I'm pretty sure 08:36AM
5 I don't have COVID. I don't even think it's the flu; I think 08:36AM
6 it's allergies. I mean, I -- maybe that's what happened. I 08:36AM
7 think that's what Ms. Miller had indicated, she thought it 08:36AM
8 was -- 08:36AM

9 MS. M. MILLER: Yes, Your Honor. I had gone to 08:36AM
10 the emergency services the night before and they told me with 08:36AM
11 no fever and with the main symptom being my throat that they 08:36AM
12 thought I may have strep, but that was it. And my rapid test, 08:36AM
13 which I bring with me, was negative, not that I should be 08:36AM
14 talking about my medical issues in open public court. 08:36AM

15 But there's absolutely no legal basis for 08:36AM
16 Mr. Martin's objection, and we want to finish this trial this 08:36AM
17 week, which means if I have prepped this witness, I know the 08:36AM
18 evidence, I know the objections, we need to get going and not 08:36AM
19 waste the jury's time with -- with anything that isn't totally 08:36AM
20 supported by the law. There is absolutely no law that says 08:36AM
21 that because Ms. Samantha Miller started with this witness 08:36AM
22 because I wasn't feeling well, she must finish with the 08:36AM
23 witness. There's no prejudice to the defendants. 08:36AM

24 As a matter of fact, Your Honor, there would be a 08:37AM
25 prejudice to this Court by having any further delay as opposed 08:37AM

1 to just let's get it done. The jury is here. We're ready to
2 go. Let's go.

3 THE COURT: And also -- well, I don't -- so let
4 me just tell both of you, I understand both positions, plus we
5 lost a juror. You -- you heard that.

6 MS. M. MILLER: I saw that.

7 THE COURT: The Court, just as an FYI, the juror
8 had to -- well, the juror sent in a note and said, "May I be
9 excused? I have a family member who has cancer."

10 And I -- so I said -- - Well, no, just a minute.
11 I said, "I want to talk to you in person -- or on the phone,"
12 and I did, "and I want to see" -- you know, I know that sounds
13 kind of strict, "but I want to see what stage cancer, how
14 serious was this, in terms of could we keep you on until the
15 end."

16 And she said, "Judge, he just got diagnosed.
17 It's Stage 4. And on a scale of 9 -- 1 to 10, he's at a 9
18 right now." And she goes, "I want to stay on." She said she
19 was very -- loved being on the jury. She felt all you were
20 professional and so on. So she was on the phone with me and
21 the jury administrator. So it was with a heavy heart that she
22 told us she didn't -- you know, she had to leave, and so I
23 excused her. I don't want -- I don't want to lose any jurors.

24 Yeah, Mr. Martin, I think I'm -- I'm inclined to
25 just allow Ms. Miller to return. Your point is taken, and I

Direct - Khamvongsa

1 understand that.

08:38AM

2 MR. MARTIN: May I make a comment, Your Honor?

08:38AM

3 THE COURT: Yeah.

08:38AM

4 MR. MARTIN: I've been coming to this Court now
5 for -- well, I've been in Guam over 70 days now, but I've been
6 coming to this Court. And every morning when I come in, I
7 come in the front door --

08:38AM

08:38AM

08:38AM

08:38AM

8 THE COURT: Yeah, they --

08:38AM

9 MR. MARTIN: -- and there's a sign. And if I
10 don't meet the qualifications of those signs, which she
11 didn't, I would have never got in the courtroom that day. And
12 -- and it's --

08:38AM

08:38AM

08:38AM

08:38AM

13 MS. M. MILLER: I'm going to object to move to
14 strike any further comments on my medical issues or condition.
15 I don't come in the front door, Your Honor, first of all.

08:38AM

08:38AM

08:38AM

16 Second of all, I did not --

08:38AM

17 MR. MARTIN: May I finish my --

08:38AM

18 MS. M. MILLER: -- not meet --

08:38AM

19 MR. MARTIN: May I finish my record, please?

08:38AM

20 THE COURT: Wait, wait, wait --

08:38AM

21 MS. M. MILLER: No, because he wants to talk
22 about my potential physical condition. It's inappropriate.
23 And, again, we are now wasting time.

08:38AM

08:38AM

08:38AM

24 THE COURT: Okay, Ms. Miller, all right. Let
25 him --

08:38AM

08:38AM

Direct - Khamvongsa

1 MS. M. MILLER: We want to get this court done. 08:38AM

2 THE COURT: Let him finish -- 08:38AM

3 MS. M. MILLER: Let's get going. 08:38AM

4 THE COURT: Okay. Without -- without -- okay, I 08:38AM
5 understand. Okay, a medical condition is brought -- it was -- 08:38AM
6 has already been brought to -- to Court earlier. So the Court 08:39AM
7 -- the point is well taken, and I think Ms. Miller knows -- 08:39AM
8 she knows the rules that the Court has specific requirements 08:39AM
9 that, you know, you can't come into Court. 08:39AM

10 MS. M. MILLER: Right. 08:39AM

11 THE COURT: I mean, it's -- it's in my -- it's in 08:39AM
12 my general orders. So she knows it, and I -- and I believed 08:39AM
13 her when she said she did take the -- made the effort to try 08:39AM
14 to find out, hey, do I have an issue, should I stay away, 08:39AM
15 and -- and basically, her doctors told her, look, you might 08:39AM
16 have strep throat or -- or you might just have something else. 08:39AM
17 Then there was no indication that she has COVID. And, you 08:39AM
18 know, this COVID, and its variants and are so -- everything is 08:39AM
19 so fluid about it. I mean, it just changes every week, I 08:39AM
20 think. But I'm inclined to deny your request and allow 08:39AM
21 Ms. Miller to return to be back the -- the original 08:39AM
22 interrogator of the witness. 08:39AM

23 MR. MARTIN: Well, she's -- my objection is she's 08:39AM
24 never interrogated him yet, Your Honor, and now we're changing 08:39AM
25 midstream, and so I -- 08:39AM

Direct - Khamvongsa

1 THE COURT: All right. 08:39AM

2 MR. MARTIN: -- I want that on the record. 08:40AM

3 THE COURT: Okay, well, I guess to let her be -- 08:40AM

4 to allow her to -- to interrogate because that was the 08:40AM

5 intention in the first place, that was her witness in the 08:40AM

6 first place according to them, and I think that was stated -- 08:40AM

7 MS. M. MILLER: That's correct, Your Honor. 08:40AM

8 THE COURT: -- that was stated at the time. 08:40AM

9 Yes, Counsel, Ms. McConwell? 08:40AM

10 MR. MCCONWELL: Hansen Helicopters -- Hansen 08:40AM

11 Helicopters joins in the objection and -- and that was not 08:40AM

12 stated prior to the witness testifying at the end of the day 08:40AM

13 -- 08:40AM

14 THE COURT: That's true. You mean in terms of 08:40AM

15 that she wasn't feeling well? 08:40AM

16 MS. MCCONWELL: At the term -- yeah, in terms 08:40AM

17 that she wasn't feeling well, we were not notified that this 08:40AM

18 was her witness that Ms. Miller -- Ms. Samantha Miller was 08:40AM

19 going to take the witness for that day. And even when she 08:40AM

20 said that she didn't feel well at end of the day, she -- well, 08:40AM

21 it may have been the next day when we heard that it was her 08:40AM

22 witness that she had Ms. Miller take -- 08:40AM

23 MS. M. MILLER: No, it actually was that -- 08:40AM

24 MS. MCCONWELL: -- because she wasn't feeling 08:40AM

25 well. 08:40AM

Direct - Khamvongsa

1 THE COURT: The Court -- okay -- 08:40AM

2 MS. M. MILLER: -- day, Your Honor, and I think 08:40AM
3 we've beat on this horse -- horse to death. 08:40AM

4 THE COURT: Okay. 08:40AM

5 MS. M. MILLER: Can we move on now? 08:40AM

6 THE COURT: The Court -- the Court will recall -- 08:40AM
7 make -- okay, Defendant will rely on its own recollection, 08:40AM
8 but -- but the -- your -- the Court accepts your joinder. The 08:40AM
9 Court will deny the motion to disallow Marie Miller to 08:41AM
10 continue with the interrogation -- or start the interrogation 08:41AM
11 of the witness. 08:41AM

12 Anything further? 08:41AM

13 MS. MCCONWELL: I have two things: I hope we're 08:41AM
14 not going to re -- re-plow the ground that was plowed by 08:41AM
15 Ms. Samantha Miller in our last day in Court? 08:41AM

16 MS. M. MILLER: No, no. 08:41AM

17 THE COURT: Okay. 08:41AM

18 MS. MCCONWELL: And then my -- my second thing -- 08:41AM

19 THE COURT: I'm sure there would be objection 08:41AM
20 asked and answered. 08:41AM

21 MS. M. MILLER: Right. 08:41AM

22 THE COURT: Yes. 08:41AM

23 MS. MCCONWELL: My next question, Your Honor, so 08:41AM
24 our Juror No. 8 was excused who was formally Alternate No. 08:41AM
25 1 -- 08:41AM

1 THE COURT: Yeah. 08:41AM

2 MS. MCCONWELL: -- and I have on my sheet that 08:41AM
3 juror -- that juror that was originally Alternate No. 3 is who 08:41AM
4 is going to replace Juror 8, and I just wanted to make sure 08:41AM
5 that that was -- is consistent. 08:41AM

6 THE COURT: Okay, Carmen, you want me -- let 08:41AM
7 me have Carmen check her notes and I'll pull up mine too. 08:41AM

8 MS. MCCONWELL: Are we -- I wasn't sure if we're 08:41AM
9 supposed to say the name, so that's why I didn't. 08:41AM

10 THE COURT: Just need -- no, the number is fine. 08:42AM
11 Okay, well, just let me get -- 08:42AM

12 MS. MCCONWELL: Well, the last number I have 08:42AM
13 was -- was Alternate 2, but this person may have been 08:42AM
14 Alternate 1. Anyway, I just want to make sure we have the 08:42AM
15 same -- 08:42AM

16 THE COURT: Yeah, that's -- that's a good point. 08:42AM
17 Let's -- let's try to get that. 08:42AM

18 (Discussion with clerk.) 08:42AM

19 THE COURT: Sure, yeah, go ahead. 08:42AM

20 (Carmen spoke to Defense Counsel.) 08:42AM

21 THE COURT: Can we get Lani to come in too? 08:42AM

22 (Pause.) 08:43AM

23 THE COURT: Okay. We'll get you a copy of the 08:43AM
24 new chart. Carmen -- 08:43AM

25 MS. MCCONWELL: Carmen, were we the same? 08:43AM

1 THE CLERK: Yes, ma'am. 08:43AM

2 THE COURT: So Alternate No. 2 now becomes Juror 08:43AM
3 No. 8, and I'll give you the... 08:43AM

4 (Pause.) 08:43AM

5 THE COURT: Okay. If you all have a copy now 08:43AM
6 that we're on the same page. 08:44AM

7 Good morning. 08:44AM

8 THE WITNESS: Good morning, Your Honor. 08:44AM

9 THE COURT: So before we begin, while Carmen is 08:44AM
10 passing all that out, how many more witnesses do you have 08:44AM
11 left, Ms. Marie Miller? 08:44AM

12 MS. M. MILLER: After Special Agent Khamvongsa, 08:44AM
13 just two. 08:44AM

14 THE COURT: Oh, okay. Good. And then it's 08:44AM
15 Mr. Klang? 08:44AM

16 MS. M. MILLER: Mr. Klang and Mr. Guzzetti. 08:44AM

17 THE COURT: Guzzetti. Just those two? 08:44AM

18 MS. M. MILLER: Yes. 08:44AM

19 THE COURT: All right. And, defendants, you 08:44AM
20 probably -- are you -- are you now -- are you prepared to tell 08:44AM
21 me if you have any witnesses you're going to call or you want 08:44AM
22 to wait until... 08:44AM

23 MR. MARTIN: Your Honor, we're to kind of waiting 08:44AM
24 to see how everything falls out. 08:44AM

25 THE COURT: Okay. Very well. 08:44AM

Direct - Khamvongsa

1 (Conferred with the Clerk.) 08:44AM

2 THE COURT: So we're good to go. All right. 08:44AM

3 Shall we call in the jurors everyone? 08:45AM

4 MS. M. MILLER: Yes, Your Honor. 08:45AM

5 THE COURT: Okay. We'll call in the jurors. 08:45AM

6 Everyone feeling okay? Do I need to get you guys free COVID 08:45AM

7 tests? You guys have your test kits? 08:45AM

8 MS. M. MILLER: Yup. 08:45AM

9 THE COURT: We have test kits too. Okay. How 08:45AM

10 long do you think you'll be with your -- 08:45AM

11 MS. M. MILLER: We'll be done hopefully -- well, 08:45AM

12 we'll be done today but I'm hoping we'll be done before end of 08:45AM

13 the day so that we could actually start his cross today. 08:45AM

14 THE COURT: Oh, okay, that's a long -- okay, so 08:45AM

15 you -- you're looking at having him all day with -- 08:45AM

16 MS. M. MILLER: Possibly. 08:45AM

17 THE COURT: Okay. Yes? 08:45AM

18 MR. MARTIN: It was 45 minutes -- 08:45AM

19 MS. M. MILLER: On Thursday. 08:45AM

20 MR. MARTIN: -- last -- last time we were in 08:45AM

21 here, Judge, and now it's all day. 08:45AM

22 THE COURT: Okay. I'll -- 08:45AM

23 MR. MARTIN: That's one of the reasons I'm 08:45AM

24 objecting to changing lawyers midstream. 08:45AM

25 THE COURT: Well, how do you know it wouldn't -- 08:45AM

Direct - Khamvongsa

1 MR. MARTIN: I believe it substantially -- 08:45AM

2 THE COURT: -- it might -- it could have been the 08:45AM

3 same. She -- Ms. Samantha might -- 08:45AM

4 MS. M. MILLER: It wouldn't have been any shorter 08:45AM

5 with Ms. Samantha Miller. 08:45AM

6 THE COURT: She might have said the same, you 08:45AM

7 know. 08:46AM

8 MR. MARTIN: It was announced that it would be 08:46AM

9 about a 45-minute witness. 08:46AM

10 THE COURT: Okay. Well, maybe it will turn into 08:46AM

11 45. We'll see. We'll see what happens. 08:46AM

12 Okay. Well, I guess I haven't really missed you 08:46AM

13 all. 08:46AM

14 (Laughing.) 08:46AM

15 MS. M. MILLER: I missed you for five minutes. 08:46AM

16 Now we're back, no more. 08:46AM

17 THE COURT: Okay, no, we're getting there. Oh, 08:46AM

18 it looks like you have three to witnesses and -- 08:46AM

19 MS. M. MILLER: Yes. 08:46AM

20 THE COURT: -- then, yeah. You have the jury 08:46AM

21 instructions. I've reviewed your jury instructions -- 08:46AM

22 MS. M. MILLER: Yes. 08:46AM

23 THE COURT: -- that you sent me. Thank you 08:46AM

24 everyone. And then we'll go through all that, and, yup, we're 08:46AM

25 good. And I don't -- yeah, we're good on -- I'm -- I'm here. 08:46AM

Direct - Khamvongsa

1 I don't have any place to go. 08:46AM

2 MS. M. MILLER: Wonderful. 08:46AM

3 THE COURT: Yeah. 08:46AM

4 MS. MCCONWELL: I was curious while we're 08:46AM

5 waiting, do we have an estimate on the length of Mr. Guzzetti 08:46AM

6 or Mr. Klang? 08:46AM

7 MS. M. MILLER: On how long they'll be? 08:46AM

8 THE COURT: Yeah, all right. 08:46AM

9 MS. M. MILLER: So Mr. Guzzetti, Your Honor, I 08:46AM

10 anticipate being about four hours, and Mr. Klang I anticipate 08:46AM

11 being about the same. 08:46AM

12 THE COURT: Okay. So it looks like, if anything, 08:46AM

13 I mean, if everything went well, we probably could get through 08:47AM

14 them in the next three days. 08:47AM

15 MS. M. MILLER: That's -- that's my hope. And, 08:47AM

16 Your Honor, if we stick to legal arguments only either in the 08:47AM

17 mornings -- 08:47AM

18 THE COURT: Oh, we can -- 08:47AM

19 MS. M. MILLER: -- or in the evenings -- 08:47AM

20 THE COURT: Yeah. 08:47AM

21 MS. M. MILLER: -- we will definitely do that. 08:47AM

22 THE COURT: We are sticking with that. You see 08:47AM

23 my calendar -- 08:47AM

24 MS. M. MILLER: Excellent. 08:47AM

25 THE COURT: -- it's set up that way. We're not 08:47AM

Direct - Khamvongsa

1 having anything interrupt my calendar. 08:47AM

2 MS. M. MILLER: Excellent. 08:47AM

3 THE COURT: Yeah, all my sentencings, whatever 08:47AM
4 needs to be bumped. Well, I haven't checked it lately, but 08:47AM
5 I'm pretty sure it is that way. 08:47AM

6 MS. M. MILLER: Uh-huh. 08:47AM

7 (Jury in at 8:47 a.m.) 08:47AM

8 THE COURT: Welcome back, ladies and gentlemen. 08:47AM
9 Nice to see all of you. I appreciate your dedication to 08:48AM
10 staying healthy and being here today. Unfortunately, we did 08:48AM
11 lose one juror. She had a family issue, so and -- and so we 08:48AM
12 had -- I had to let her go. And she didn't want to go but she 08:48AM
13 was very -- she had go, but she was very -- wanting to stay, 08:48AM
14 very dedicated to continuing to stay. 08:48AM

15 But so we -- I have 14 of you, so every one of 08:48AM
16 you are very important. We want to finish this. The 08:48AM
17 prosecution intends to finish their case in chief in this 08:48AM
18 week. They have three witnesses remaining, including the 08:48AM
19 witness currently on the stand who, you might recall, was 08:48AM
20 still on the stand the week before we had our last recess. 08:48AM
21 And then -- and then they have two witnesses after him, and 08:48AM
22 then we will proceed -- I'll tell you how we're going to 08:48AM
23 proceed after that, and then -- and then, you know, there'll 08:48AM
24 be potential other evidence we'll see and closing arguments 08:48AM
25 and then deliberations. So that's that -- so there is an end 08:48AM

Direct - Khamvongsa

1 in sight, and so thank you for your patience.

08:48AM

2 At this time, Ms. Miller, Marie Miller.

08:49AM

3 MS. M. MILLER: Yes, Your Honor, thank you.

08:49AM

4 THE COURT: Are you willing to restate the name
5 of the witness for the record or you can have him?

08:49AM

6 THE WITNESS: It's Viranousith Khamvongsa. I'm a
7 Special Agent with IRS Criminal Investigation.

08:49AM

8 MS. M. MILLER: Thank you, sir.

08:49AM

9 May I proceed, Your Honor?

08:49AM

10 THE COURT: You may.

08:49AM

11 MS. M. MILLER: Good morning, members of the
12 jury.

08:49AM

13 THE COURT: Okay. What is that noise?

08:49AM

14 MS. M. MILLER: I don't know. I don't think it's
15 me but maybe.

08:49AM

16 THE COURT: Okay, is it -- Carm -- Carm --

08:49AM

17 MS. M. MILLER: Maybe somebody's mic is live and
18 there's rep -- I don't know.

08:49AM

19 (Conferred with the Clerk.)

08:49AM

20 THE COURT: Oh, you're breathing.

08:49AM

21 MS. M. MILLER: I'm breathing. Okay, I'm going
22 to stop breathing. This may be a long night -- will that
23 work?

08:49AM

24 THE COURT: Well, I don't know CPR.

08:49AM

25 MS. M. MILLER: Hold my breath.

08:49AM

Direct - Khamvongsa

1 THE COURT: Anybody? The fireman probably knows
2 CPR.

3 MS. M. MILLER: Yeah, we'll do that. You'll --
4 you'll handle it? Thank you, thank you. Thank you for not
5 letting me die.

6 THE COURT: Yeah, I don't know CPR; I'm not a
7 good judge. Okay, go ahead.

8 MS. M. MILLER: Is that better? Is that better,
9 Your Honor? All right, wonderful.

10 BY MS. M. MILLER: (CONTINUING)

11 Q. Special Agent Khamvongsa, welcome back.

12 A. Thank you.

13 Q. Could you, please, tell the members of the jury, how
14 long have you been working on this case?

15 A. I've been involved in this case since 2017.

16 Q. And could you also tell the members of the jury, who
17 is the primary owner of every single company that was used to
18 lease the helicopters to the tuna boat companies?

19 MR. MARTIN: Your Honor, I object; asked and
20 answered. This is -- this is replowing what was already done.

21 MS. M. MILLER: And, Your Honor, I can assure the
22 Court it has not been asked and answered. I read the entire
23 transcript of Special Agent Khamvongsa's testimony.

24 MR. MARTIN: I have too, Your Honor, and I
25 object; asked and answered.

Direct - Khamvongsa

1 MS. M. MILLER: Then point -- point to it. 08:50AM

2 THE COURT: Counsels, all right. Address the 08:50AM
3 Court, not each other. 08:50AM

4 All right. The jurors will -- it's going to be 08:50AM
5 your memory that -- that counts. So the Court will allow this 08:50AM
6 preliminary ones, and whether -- this will entail me to go 08:50AM
7 back and look at the transcript, but I'm going to let the 08:50AM
8 jurors' memory prevail, but I'll allow this one question. So 08:51AM
9 go ahead, you may proceed. 08:51AM

10 MS. M. MILLER: Yes, Your Honor. 08:51AM

11 THE COURT: Go ahead, sir. 08:51AM

12 BY MS. M. MILLER: (CONTINUING) 08:51AM

13 Q. Sir, could you, please, tell the members of the jury, 08:51AM
14 who owns every single company that was used to lease 08:51AM
15 helicopters to the tuna boat companies? 08:51AM

16 A. Defendant Jon Walker. 08:51AM

17 Q. And could you tell the members of the jury how you 08:51AM
18 know that? 08:51AM

19 A. I know that based upon the corporate records along 08:51AM
20 with Hansen Helicopters, which was obtained through the search 08:51AM
21 warrant as well as provided to the Government -- Government 08:51AM
22 through a grand jury subpoena. I also -- it's also based upon 08:51AM
23 my review of the bank records, statements made by the 08:51AM
24 co-defendants, including Mr. Reed, Mr. Crowe and Mr. Walker 08:51AM
25 himself. A good example is on the bank records -- 08:51AM

Direct - Khamvongsa

1 MR. MARTIN: Your Honor, I object to the 08:51AM
2 narrative. 08:51AM
3 BY MS. M. MILLER: (CONTINUING) 08:51AM
4 Q. Could you provide the jury with an example? 08:51AM
5 THE COURT: Okay. 08:51AM
6 MR. MARTIN: May I have a ruling on my objection? 08:51AM
7 THE COURT: Okay, the objection will be 08:52AM
8 sustained, yeah. 08:52AM
9 BY MS. M. MILLER: (CONTINUING) 08:52AM
10 Q. Can you provide the jury with an example, sir? 08:52AM
11 MR. MARTIN: Your Honor, I object that's going 08:52AM
12 right -- he's already done that. 08:52AM
13 MS. M. MILLER: Actually -- 08:52AM
14 THE COURT: Overruled. 08:52AM
15 MS. M. MILLER: -- he didn't -- 08:52AM
16 THE COURT: Overruled. 08:52AM
17 MS. M. MILLER: -- finish. 08:52AM
18 THE COURT: Overruled. Go ahead. Go ahead. 08:52AM
19 MR. MARTIN: Your Honor, may -- may I have a 08:52AM
20 standing objection. When I object, I would like the Court to 08:52AM
21 rule and Ms. Miller to wait for you to rule before -- 08:52AM
22 THE COURT: Okay, very well. 08:52AM
23 MR. MARTIN: -- she starts talking. 08:52AM
24 THE COURT: Point -- 08:52AM
25 MR. MARTIN: We've -- we've started a process and 08:52AM

Direct - Khamvongsa

1 it's been going on throughout the trial. It's not
2 appropriate. It's not proper.

3 MS. M. MILLER: I'm going to move to strike Mr.
4 Martin's comments --

5 MR. MARTIN: And I ask the Court to --

6 MS. M. MILLER: -- because that --

7 MR. MARTIN: -- to allow him --

8 MS. M. MILLER: -- that is not correct.

9 THE COURT: Okay, listen, I've been a judge
10 30 years. I think I've only used my gavel three times. I
11 don't think I need to do it another time. So let's just say
12 point well taken. Whoever makes an objection, but in this
13 particular case if Mr. Martin makes an objection, Counsel wait
14 until he's done.

15 MS. M. MILLER: Yes, Your Honor.

16 THE COURT: And then I will -- then if I -- if I
17 think I need you to respond, I'll do it; otherwise, I can just
18 make my ruling without your response. Both ways, okay,
19 Counsels?

20 MS. M. MILLER: Yes, Your Honor.

21 THE COURT: Right, so objection over --
22 sustained. Go ahead.

23 MS. M. MILLER: No, you overruled it.

24 THE COURT: I'm sorry, no, objection -- his
25 request -- I'm sorry, his request is granted, I should say.

1 MS. M. MILLER: Right. 08:53AM

2 THE COURT: The request is granted. 08:53AM

3 MS. M. MILLER: But then the -- 08:53AM

4 THE COURT: You know, the objection is overruled. 08:53AM

5 MS. M. MILLER: -- I could ask the example? 08:53AM

6 THE COURT: Go ahead, yeah. Yeah. 08:53AM

7 BY MS. M. MILLER: (CONTINUING) 08:53AM

8 Q. Could you provide the jury with an example? 08:53AM

9 A. A good example is the exhibit that we have, as it 08:53AM
10 relates to Exhibit 829, as you look at the 30 Vanuatu 08:53AM
11 companies, you can see that it flows through Bean Bag, then it 08:53AM
12 flows through Caledonian Insurance Company, and eventually it 08:53AM
13 all flows through to Jon Walker. 08:53AM

14 In addition, we have tax records which reflect that 08:53AM
15 those companies are wholly owned by Hansen Helicopters, and 08:53AM
16 Hansen Helicopters is 99.9% owned by -- 08:53AM

17 MS. MCCONWELL: Your Honor -- 08:53AM

18 THE WITNESS: -- Mr. Jon Walker. 08:53AM

19 MS. MCCONWELL: -- I object to any testimony 08:53AM
20 about Hansen Helicopters. Hansen Helicopters is not part of 08:53AM
21 any of the counts that Mr. Khamvongsa is testifying to. 08:53AM

22 THE COURT: Okay, the relevance? 08:53AM

23 MS. M. MILLER: May I respond, Your Honor? 08:53AM

24 THE COURT: Yes. 08:53AM

25 MS. M. MILLER: Yes. As we saw from the 08:53AM

Direct - Khamvongsa

1 testimony and from the documents that were all admitted into 08:53AM
2 evidence, Jon Walker is the sole owner of Hansen Helicopters. 08:53AM
3 So some of the evidence that the control of these leases, the 08:54AM
4 control of the helicopters was actually directed by Jon Walker 08:54AM
5 but through Hansen Helicopters. 08:54AM

6 THE COURT: Is this -- oh, okay, yes? 08:54AM

7 MR. MARTIN: Your Honor, may I -- 08:54AM

8 THE COURT: Mr. Martin, yes? 08:54AM

9 MR. MARTIN: My objection is Ms. Miller is 08:54AM
10 testifying. 08:54AM

11 MS. M. MILLER: I'm not testifying.

12 MR. MARTIN: She responded --

13 THE COURT: Okay, wait --

14 MR. MARTIN: May I --

15 THE COURT: -- wait, wait --

16 MR. MARTIN: May I make my --

17 THE COURT: Don't -- don't respond -- wait, wait, 08:54AM
18 Ms. Miller, don't respond, please. Just -- nobody respond 08:54AM
19 unless I ask you guys to respond. 08:54AM

20 MS. M. MILLER: Yes, Your Honor. 08:54AM

21 MR. MARTIN: Ms. Miller is testifying in response 08:54AM
22 to a legal objection. That's inappropriate. That's for the 08:54AM
23 jury to decide who owns what, who doesn't own what. I object 08:54AM
24 to these testifying responses she's making and ask the Court, 08:54AM
25 if we need to go into that, excuse the jury and do it 08:54AM

Direct - Khamvongsa

1 appropriately.

08:54AM

2 THE COURT: All right. And, Ms. McConwell?

08:54AM

3 MS. MCCONWELL: And I object to any reference or
4 inference of Hansen Helicopters or trying to bootstrap them
5 into counts that they have not -- Hansen Helicopters has not
6 been indicted on, which are Counts 99 through 110.

08:54AM

08:54AM

08:54AM

08:54AM

7 THE COURT: All right. And let me just have one
8 more -- okay, go ahead, Ms. --

08:55AM

08:55AM

9 MS. M. MILLER: May I respond --

08:55AM

10 THE COURT: Yes --

08:55AM

11 MS. M. MILLER: -- Your Honor?

08:55AM

12 THE COURT: -- Marie Miller, go ahead.

08:55AM

13 MS. M. MILLER: First of all, it's impossible to
14 respond to a relevance objection without reminding the Court
15 of the evidence that has been --

08:55AM

08:55AM

08:55AM

16 THE COURT: Okay, let me just --

08:55AM

17 MS. M. MILLER: -- produced.

08:55AM

18 THE COURT: -- let me just say -- let me just
19 look at 99. Let me look at the indictment.

08:55AM

08:55AM

20 MS. M. MILLER: Well, no, Your Honor, Hansen
21 Helicopters is not named as a named defendant in Count 99.

08:55AM

08:55AM

22 THE COURT: All right, so okay --

08:55AM

23 MS. M. MILLER: However --

08:55AM

24 THE COURT: -- so we all agree on that. So --

08:55AM

25 MS. M. MILLER: Yes.

08:55AM

Direct - Khamvongsa

1 THE COURT: -- it has to do with another 08:55AM
2 theory -- 08:55AM
3 MS. M. MILLER: Yes. 08:55AM
4 THE COURT: -- not that theory? 08:55AM
5 MS. M. MILLER: Correct. 08:55AM
6 THE COURT: Which is what? 08:55AM
7 MS. M. MILLER: Which is that Jon Walker, as the 08:55AM
8 99.99 -- 08:55AM
9 THE COURT: All right. So we heard -- 08:55AM
10 MS. M. MILLER: -- percent -- 08:55AM
11 THE COURT: Okay, hold on. The Court already has 08:55AM
12 that evidence before it, so you don't need go any further with 08:55AM
13 that. 08:55AM
14 MS. M. MILLER: Correct. So what Mr. Khamvongsa 08:55AM
15 was talking about -- was answering the question about -- 08:55AM
16 THE COURT: Got it. 08:55AM
17 MS. M. MILLER: -- is how he knows through his 08:55AM
18 investigation -- 08:55AM
19 THE COURT: I got it. I understand. 08:55AM
20 MS. M. MILLER: Yes. 08:55AM
21 THE COURT: I already -- I been here as long as 08:55AM
22 you guys have. 08:55AM
23 MS. M. MILLER: Yes. 08:55AM
24 THE COURT: Okay, go ahead. Anything further, 08:55AM
25 Counsels? 08:55AM

Direct - Khamvongsa

1 MS. MCCONWELL: Well, I would also say asked and
2 answered. Some of this ground we went through on Thursday,
3 June 8th, and so I think we need to move on to subject matters
4 that have not been --

5 THE COURT: Okay.

6 MS. MCCONWELL: -- inquired of.

7 THE COURT: All right. Anything -- okay. Any --
8 on the asked and answered?

9 MS. M. MILLER: It has not been, Your Honor. As
10 a matter of fact, as I've stated earlier, I reviewed the
11 entire transcript of the testimony of Agent Khamvongsa and I
12 ensured myself for the Court that there is not one question
13 that has been asked and answered.

14 THE COURT: All right, very well. And I've heard
15 the opposite sometimes from the defense.

16 All right. On the -- on the objection of asked
17 and answered, again, the Court will -- the Court will overrule
18 that objection and I will allow the jurors to recall their own
19 memory of the prior testimony, which did occur sometime ago.

20 Secondly, on the particular original objection,
21 the Court will overrule that objection, and you may proceed.

22 MS. M. MILLER: Thank you, Your Honor.

23 MS. MCCONWELL: Your Honor, I'd ask for a
24 limiting -- the limiting instruction that you have given about
25 that Hansen Helicopters is not charged in this Counts 99

Direct - Khamvongsa

1 through 110 --

08:56AM

2 MS. M. MILLER: And, Your Honor --

08:56AM

3 MS. MCCONWELL: -- which are the only counts that
4 Mr. Khamvongsa's testimony is relevant to, and we -- because
5 it's been some time since the jury's heard that limiting
6 instruction.

08:56AM

08:57AM

08:57AM

08:57AM

7 THE COURT: All right.

08:57AM

8 MS. M. MILLER: Your Honor --

08:57AM

9 THE COURT: Yes?

08:57AM

10 MS. M. MILLER: -- that limiting instruction was
11 given repeatedly. The jury just heard the objection.

08:57AM

08:57AM

12 THE COURT: All right, so --

08:57AM

13 MS. M. MILLER: The jury has heard the Government
14 say that Hansen --

08:57AM

08:57AM

15 THE COURT: All right, the question is --

08:57AM

16 MS. M. MILLER: -- is not named.

08:57AM

17 THE COURT: -- you -- you -- just way minute. So
18 you're not saying that the instruction is incorrect. You're
19 just saying that just think it's not -- I've already stated --

08:57AM

08:57AM

08:57AM

20 MS. M. MILLER: It is at this point so cumulative
21 --

08:57AM

08:57AM

22 THE COURT: Let me have a --

08:57AM

23 MS. M. MILLER: -- it's just --

08:57AM

24 THE COURT: Let me have a copy of that
25 instruction --

08:57AM

08:57AM

Direct - Khamvongsa

1 MS. M. MILLER: -- wasting time. 08:57AM
2 THE COURT: -- copy of the instruction. 08:57AM
3 MR. MARTIN: Judge, it's been 45 days since the 08:57AM
4 jury has heard the instruction. 08:57AM
5 THE COURT: Has it been 45 days? 08:57AM
6 MR. MARTIN: And -- 08:57AM
7 THE COURT: My gosh. 08:57AM
8 MR. MARTIN: -- and -- 08:57AM
9 THE COURT: Okay, we got it. I got it. You guys 08:57AM
10 don't have to explain it. You may proceed. 08:57AM
11 MS. M. MILLER: They don't remember the 08:57AM
12 instruction but they remembered the 200 pages of testimony -- 08:57AM
13 THE COURT: The Court will overrule -- 08:57AM
14 MS. M. MILLER: -- over that period of time -- 08:57AM
15 THE COURT: The Court will overrule -- 08:57AM
16 MS. M. MILLER: -- right? 08:57AM
17 MR. MARTIN: These sidebar comments are 08:57AM
18 continuing. 08:57AM
19 THE COURT: All right. 08:57AM
20 MS. M. MILLER: And your objections are -- 08:57AM
21 THE COURT: No -- 08:57AM
22 MS. M. MILLER: -- continuing -- 08:57AM
23 THE COURT: Counsel -- 08:57AM
24 MS. M. MILLER: -- so I need to respond to the 08:57AM
25 objections. 08:57AM

Direct - Khamvongsa

1 THE COURT: Listen, I don't want to have to reach 08:57AM
2 over. It's like five more inches from me. 08:57AM

3 All right. The Court will -- the Court will -- 08:57AM
4 okay, first of all, on the instruction, I'll give the 08:57AM
5 instruction this time. So let me pull it up to make sure I 08:58AM
6 say it correctly. I'm pretty sure I have it in my pile here, 08:58AM
7 but I'm going to get it faster with Emily giving it to me. I 08:58AM
8 think. 08:58AM

9 You don't have it? All right, let me see. Maybe 08:58AM
10 I have it. Hold on. 08:58AM

11 Secondly, yeah, Counsels, let's just keep our 08:58AM
12 comments to ourselves, as much as we want to say stuff, you 08:58AM
13 know, in the heat of the trial. We get all excited. How do I 08:58AM
14 know? Because I used to be a trial lawyer. But you need to 08:58AM
15 calm down, everyone. 08:58AM

16 All right, let me see. Let me pull my -- 08:58AM

17 (Conferred off the record.) 08:58AM

18 THE COURT: Excuse me, ladies and gentlemen of 08:58AM
19 the jury. 08:59AM

20 (Pause.) 08:59AM

21 MS. MCCONWELL: Your Honor, I think we created it 09:00AM
22 when Ms. Jones also testified. 09:00AM

23 THE COURT: Who? Ms. Jones? 09:00AM

24 MS. MCCONWELL: Ms. Jones. 09:00AM

25 THE COURT: All right, let me try -- we'll try to 09:00AM

1 find it. We'll try to find it but let me -- so let's just
2 craft one -- wait, hold on, it's right here. No, that's --
3 that's got to -- that's got to do with COVID stuff. That's
4 not it. Find it?

5 All right. Basically you want a limiting -- I'll
6 find a limiting instruction, but I just -- basically just say
7 that the defendant not charged under -- under Counts 99
8 through 110?

9 MS. MCCONWELL: Yes, and his testimony is not
10 relevant to Hansen Helicopters.

11 THE COURT: It's not relevant as to -- well,
12 it's -- they're saying -- they're saying it's relevant to
13 Hansen Helicopters --

14 MS. M. MILLER: Exactly.

15 THE COURT: -- to a certain extent. But -- but,
16 in terms of the charging, that's what you're saying --

17 MS. M. MILLER: No.

18 THE COURT: -- you're focusing on the actual
19 charged indictment, which I have a copy of.

20 MS. M. MILLER: And that's --

21 MR. MARTIN: Your Honor, if the Court remembers
22 --

23 MS. M. MILLER: -- and that changes.

24 MR. MARTIN: -- the Government's trial brief said
25 his testimony would be limited to Counts 100 through 110.

1 MS. M. MILLER: No, that's incorrect. 09:01AM
2 THE COURT: Okay, wait, wait, hold on, let him -- 09:01AM
3 MR. MARTIN: It says 100 -- 09:01AM
4 THE COURT: -- let him just finish. 09:01AM
5 MR. MARTIN: It says wire fraud -- I'll be more 09:01AM
6 specific. It says wire fraud and money laundering, which is 09:01AM
7 counts -- 09:01AM
8 MS. M. MILLER: Conspiracy -- 09:01AM
9 MR. MARTIN: -- one -- 09:01AM
10 MS. M. MILLER: -- to commit -- 09:01AM
11 MR. MARTIN: Can she just -- 09:01AM
12 THE COURT: Wait, Ms. Miller -- 09:01AM
13 MR. MARTIN: May I finish? 09:01AM
14 THE COURT: Ms. Miller, let him, and then I -- if 09:01AM
15 you don't let him finish, I'm not going to let you respond. 09:01AM
16 MS. M. MILLER: Yes, Your Honor. 09:02AM
17 THE COURT: So it's better to let him finish if 09:02AM
18 you want to get your point across. 09:02AM
19 MS. M. MILLER: Yes, Your Honor. 09:02AM
20 THE COURT: All right. What is it, Mr. Martin? 09:02AM
21 MR. MARTIN: It says -- 09:02AM
22 THE COURT: No, just want what count -- what 09:02AM
23 counts are you talking about? 09:02AM
24 MR. MARTIN: I'm reading from the Government's 09:02AM
25 summary of their trial brief where it says his testimony, what 09:02AM

Direct - Khamvongsa

1 it will be --

09:02AM

2 THE COURT: Uh-huh, counts --

09:02AM

3 MR. MARTIN: -- will testify as to wire fraud and
4 money laundering charges reflected in SSI, which is Counts 100
5 through 110.

09:02AM

09:02AM

09:02AM

6 MS. MCCONWELL: And, Your Honor --

09:02AM

7 THE COURT: Okay.

09:02AM

8 MS. MCCONWELL: -- that's at 1311-51.

09:02AM

9 THE COURT: Okay.

09:02AM

10 MR. MARTIN: Page.

09:02AM

11 THE COURT: 100 -- strike -- okay, hold on, hold
12 on. I'm a fast reader but I got to -- let me look at this
13 real quick. 100 -- okay, 100 to 104 is wire to fraud. And
14 let's see, okay, and 105 to 110, well, that wouldn't be
15 relevant. That's -- that was the forfeiture allegations. So
16 100 to 104 is money laundering.

09:02AM

09:02AM

09:02AM

09:02AM

09:02AM

09:02AM

17 MS. M. MILLER: No, Your Honor.

09:02AM

18 THE COURT: 1 -- 99 --

09:02AM

19 MS. M. MILLER: Count 99 is conspiracy to commit
20 wire fraud.

09:02AM

09:03AM

21 THE COURT: Oh, I'm reading it wrong; that's

09:03AM

22 right. Okay -- but, okay, you're talking about 100 to 104 --

09:03AM

23 MR. MARTIN: 110, Your Honor.

09:03AM

24 THE COURT: Okay, 1-0 -- 100 to 104 is --

09:03AM

25 MR. MARTIN: Wire fraud.

09:03AM

1 THE COURT: -- money laundering and notice of 09:03AM
2 forfeiture allegations. 09:03AM
3 MR. MARTIN: Your Honor, 1 -- 09:03AM
4 THE COURT: Are you guys looking at the Second 09:03AM
5 Superseding Indictment? 09:03AM
6 MR. MARTIN: Yes, Your Honor, 105 through to 110 09:03AM
7 is money laundering. 09:03AM
8 THE COURT: Oh, okay, you're right. Strike that. 09:03AM
9 I'm looking at -- you know what -- 09:03AM
10 MR. MARTIN: And -- and if the Court will look 09:03AM
11 at -- 09:03AM
12 THE COURT: Yeah, you're right, you're right. 09:03AM
13 I'm sorry. 09:03AM
14 MR. MARTIN: -- ECF 1311, page 42 -- 09:03AM
15 MS. M. MILLER: It's 51 on the ECF. 09:03AM
16 MR. MARTIN: Yeah, ECF. It's Page 51 on the ECF. 09:03AM
17 At top of page, it tells what the summary testimony of the 09:03AM
18 witness will be. 09:03AM
19 THE COURT: All right. Okay. So let's look at 09:03AM
20 this really quick, let me look -- I'm looking at the -- I was 09:03AM
21 reading the -- I was reading the order wrong. So 100 to 104 09:03AM
22 is wire fraud. 09:03AM
23 MS. M. MILLER: 99, Your Honor, is the wire fraud 09:04AM
24 -- 09:04AM
25 THE COURT: Okay, wait, Counsel -- but, Counsel, 09:04AM

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1 he's only talking about -- okay, we'll talk about -- you can
2 respond in a minute. He's only talking about 100 to 110.
3 That's all I'm focused on right now.

4 MS. M. MILLER: But he's misleading you, Your
5 Honor.

6 THE COURT: But you can say -- you can say that
7 when you respond.

8 MS. M. MILLER: Okay.

9 THE COURT: Let me just -- yeah, let's just hear
10 what he has to say. 100 to 104 is wire fraud, and 105 to 110
11 is --

12 MS. MCCONWELL: Money laundering.

13 THE COURT: -- money laundering. Okay, we all
14 agree on that. Anybody disagree? Okay?

15 MS. M. MILLER: Yes, Your Honor, I disagree.

16 MR. MARTIN: That -- that is found, Your Honor,
17 at ECF 1311, Page 51, where it tells what his summary
18 testimony will be, that's where that comes from. It's the
19 Government's document and it says "wire fraud and money
20 laundering charges."

21 THE COURT: Okay.

22 MR. MARTIN: And I've read that. I can read it
23 --

24 THE COURT: No, you don't have to read it.
25 Please don't read to me. Nobody needs to read to me.

1 MS. M. MILLER: And Count 99 is conspiracy to 09:04AM
2 commit wire fraud. By the way, we had this legal argument -- 09:04AM
3 MR. MARTIN: We've not -- 09:04AM
4 MS. M. MILLER: -- the last time that -- 09:04AM
5 THE COURT: All right, wait, wait, Counsels -- 09:04AM
6 MS. M. MILLER: -- Agent Khamvongsa -- 09:04AM
7 THE COURT: Okay -- 09:04AM
8 MS. M. MILLER: -- testified. 09:04AM
9 THE COURT: Okay, all I care about is -- 09:04AM
10 MS. M. MILLER: This is the -- 09:05AM
11 THE COURT: Let me -- 09:05AM
12 MS. M. MILLER: This is the same argument. 09:05AM
13 THE COURT: Let me -- okay, I found the 09:05AM
14 instruction. Everybody could be seated. Here we go. 09:05AM
15 Ladies -- I got the instruction. 09:05AM
16 The Court notes what -- I see the Counts 99 09:05AM
17 through 110. It says, "Although the defendants are being 09:05AM
18 tried together, ladies and gentlemen of the jury, you must 09:05AM
19 give separate consideration of each -- to each defendant. In 09:05AM
20 doing so, you must determine which evidence in the case 09:05AM
21 applies to each defendant, disregarding any evidence admitted 09:05AM
22 solely against some other defendant or defendants. The fact 09:05AM
23 that you may find one of the defendants guilty or not guilty 09:05AM
24 should not control your verdict as to any other defendant or 09:05AM
25 defendants." This is Court's -- gets this instruction from 09:05AM

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1 6.12, all right, so separate consideration for each defendant.

2 So we have two defendants in this case, that are
3 remaining here in Court now, right, Mr. Jon D. Walker
4 represented by Mr. Martin and Hansen Helicopters represented
5 by Mr. McConwell and Ms. McConwell.

6 So that's the limiting instruction count, ladies
7 and gentlemen. If I'm going to get more specific about it, I
8 will give you another one, okay?

9 So proceed, next question.

10 MS. M. MILLER: Okay. Thank you, Your Honor.

11 BY MS. M. MILLER: (CONTINUING)

12 Q. Special Agent Khamvongsa, based on your
13 investigation, can you, please, tell the members of the jury
14 who was the sole controller of all of the Vanuatu companies
15 used in this case?

16 MS. MCCONWELL: Your Honor, I object, that calls
17 for a conclusion.

18 THE COURT: All right. The Court will sustain
19 the objection. You have to lay a foundation.

20 MS. M. MILLER: The question said --

21 THE COURT: Who -- who --

22 MS. M. MILLER: -- based on all of his
23 investigation, it calls for a concl- -- I'm not -- that's --

24 THE COURT: Oh, yeah --

25 MS. M. MILLER: -- not a conclusion.

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1 THE COURT: -- did you -- did you say based on 09:06AM
2 your investigation? 09:06AM
3 MS. M. MILLER: Yes. 09:06AM
4 THE COURT: Oh, okay. Well, then, I'm sorry, I 09:06AM
5 didn't hear that. 09:07AM
6 MS. M. MILLER: Yes. 09:07AM
7 THE COURT: All right. Anything further? 09:07AM
8 Yes, Mr. Martin? 09:07AM
9 MR. MARTIN: Your Honor, I believe that the Court 09:07AM
10 has entered an order that -- and I object that he may testify 09:07AM
11 as to what he did relating to the facts of his investigation. 09:07AM
12 THE COURT: Right. 09:07AM
13 MR. MARTIN: But any opinions that he may have 09:07AM
14 are -- are to be excluded, and the Court issued an order the 09:07AM
15 other day on that. 09:07AM
16 MS. M. MILLER: No, you did not. Again, 09:07AM
17 misrepresentation -- 09:07AM
18 MR. MARTIN: And may we have -- 09:07AM
19 THE COURT: Wait, wait, wait, Ms. Miller, please 09:07AM
20 let him finish -- 09:07AM
21 MS. M. MILLER: Okay. 09:07AM
22 THE COURT: -- let him finish his objection. 09:07AM
23 Better to let him finish. You don't -- you want to -- 09:07AM
24 MR. MARTIN: They filed -- 09:07AM
25 THE COURT: -- be able to speak on behalf of the 09:07AM

Direct - Khamvongsa

1 Government.

09:07AM

2 Go ahead.

09:07AM

3 MR. MARTIN: The Government filed a motion
4 requesting that he be allowed to testify not only as to what
5 he found in the facts to be but as to his opinions, and the
6 Court issued an order. They also asked that he be a summary
7 witness, and the Court issued an order that he cannot testify
8 as to his opinions or as to any summary testimony, and she's
9 asking that very thing right now.

09:07AM

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10 THE COURT: All right.

09:07AM

11 MS. M. MILLER: Three things.

09:07AM

12 MR. MARTIN: And I object.

09:07AM

13 THE COURT: All right. Any -- wait, wait. Any
14 other -- any other objections?

09:07AM

09:07AM

15 Wait, wait, wait. Ms. Miller, don't speak until
16 I say you can speak. Zip it.

09:07AM

09:07AM

17 MR. MARTIN: That's --

09:07AM

18 THE COURT: Go ahead.

09:08AM

19 MR. MARTIN: That's the basis of my objection,
20 Your Honor.

09:08AM

09:08AM

21 THE COURT: All right. Yes?

09:08AM

22 MS. MCCONWELL: Hansen joins.

09:08AM

23 THE COURT: Hansen joins.

09:08AM

24 All right, yes, Ms. Miller?

09:08AM

25 MS. M. MILLER: Number one, I did not ask him for

09:08AM

Direct - Khamvongsa

1 an opinion.

09:08AM

2 Number two, I did not ask this Court to allow him
3 to testify as a summary witness; that was Mr. Klang.

09:08AM

09:08AM

4 Number three, this Court entered an order saying
5 that you could not preliminarily render opinions about whether
6 lay witness opinion is appropriate through this witness or
7 not. You needed to wait until the questions were asked and
8 then you would rule, Your Honor. That is what you ruled and
9 that is exactly what was in that motion, not what Mr. Martin
10 just represented.

09:08AM

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09:08AM

11 THE COURT: Okay. But he is -- he is somewhat
12 giving an opinion by, based on his investigation, he's -- he's
13 making a finding that he believes somebody was doing
14 something. It was while he was performing his --

09:08AM

09:08AM

09:08AM

09:08AM

15 MS. M. MILLER: No, the finding is that the --

09:08AM

16 THE COURT: -- job.

09:08AM

17 MS. M. MILLER: Not at all. He's saying based on
18 the investigation and all of the evidence that he reviewed,
19 which was he already testified earlier thousands and thousands
20 of documents, that the sole controller was Jon Walker. That's
21 not an opinion. That is what the evidence showed based on the
22 transactions and based on who was signing off on those
23 transactions.

09:08AM

09:08AM

09:08AM

09:09AM

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09:09AM

24 THE COURT: But that's based on --

09:09AM

25 MR. MARTIN: Your Honor, I object to the --

09:09AM

1 THE COURT: I'm sorry, that's --

09:09AM

2 MR. MARTIN: -- narratives and the factual -- the
3 factual way she's answering your questions, not arguing the
4 law but trying to testify to this jury again.

09:09AM

09:09AM

09:09AM

5 THE COURT: All right. Let me just say couple
6 things:

09:09AM

09:09AM

7 Number one, Ms. Miller's correct that in my order
8 I said that Counsels can make specific objections during the
9 trial, which you guys are -- which defense is doing now and
10 which prosecution will have an opportunity to if they need to
11 do so as well.

09:09AM

09:09AM

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09:09AM

12 On the issue of this last question, the Court
13 will overrule the objection and allow it. You may proceed.

09:09AM

09:09AM

14 MS. M. MILLER: Thank you, Your Honor.

09:09AM

15 THE COURT: Answer?

09:09AM

16 BY MS. M. MILLER: (CONTINUING)

09:09AM

17 Q. Would you like me to repeat the question, Special
18 Agent Khamvongsa?

09:09AM

09:09AM

19 A. Could you please?

09:09AM

20 Q. I will.

09:09AM

21 Based on your investigation and the evidence that you
22 reviewed, could you, please, tell the jury who was the sole
23 controller of the Vanuatu companies that were used in this
24 case?

09:09AM

09:09AM

09:09AM

09:10AM

25 MR. MARTIN: Your Honor, I object. It calls for

09:10AM

Direct - Khamvongsa

1 a conclusion, beyond the scope of this witness.

2 THE COURT: All right. Anything -- Ms.
3 McConwell, anything?

4 MS. MCCONWELL: Hansen joins.

5 THE COURT: All right. The Court will overrule
6 the objection. You may proceed.

7 BY MS. M. MILLER: (CONTINUING)

8 Q. Can you tell the jury --

9 A. Defendant Jon Walker.

10 Q. -- based on your review of the corporate records in
11 this case, including the bank records, who was the president
12 of every single one of these corporations used in this case?

13 MR. MARTIN: Same objection, Your Honor.

14 THE COURT: Overruled.

15 THE WITNESS: Defendant Jon Walker.

16 BY MS. M. MILLER: (CONTINUING)

17 Q. Based on your review of all of the bank records, who
18 was the number one authorized signer to move money from
19 accounts in this case?

20 A. Defendant Jon Walker.

21 Q. And, based on your review of all of the bank records
22 and the tax records, who was the person who received the
23 profits from the tuna boat leases in this case?

24 MR. MARTIN: Same objection, Your Honor.

25 THE COURT: Okay, overruled.

Direct - Khamvongsa

1 THE WITNESS: Defendant Jon Walker.

09:11AM

2 BY MS. M. MILLER: (CONTINUING)

09:11AM

3 Q. As a Special Agent with the IRS for the last 20 years
4 and based on the education and experience that you already
5 shared with this jury that you have, can you tell the members
6 of the jury what do you look for in terms of evidence of a
7 valid corporate structure?

09:11AM

09:11AM

09:11AM

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09:11AM

8 MR. MARTIN: Your Honor, I object to the
9 question, "a valid corporate structure." That's an improper
10 question and I object. She can ask what a corporate structure
11 is. She can ask -- he's not an expert, Your Honor, and
12 they're trying to make him one, and I object.

09:11AM

09:11AM

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09:11AM

13 MS. MCCONWELL: And I object to foundation and
14 join in his objection.

09:11AM

09:11AM

15 THE COURT: All right, the Court -- okay, so --
16 okay, there's an objection to "valid corporate structure" and
17 another objection to foundation. So the Court will sustain
18 the objection on foundation.

09:11AM

09:11AM

09:12AM

09:12AM

19 MS. M. MILLER: So I will lay a foundation, Your
20 Honor.

09:12AM

09:12AM

21 THE COURT: Right. Very well, go ahead.

09:12AM

22 BY MS. M. MILLER: (CONTINUING)

09:12AM

23 Q. So could you, please, let the members of the jury
24 know what training and experience did you have as an IRS
25 special agent to determine the validity of a corporation when

09:12AM

09:12AM

09:12AM

Direct - Khamvongsa

1 you're doing your investigation? 09:12AM

2 MR. MARTIN: Asked and answered, Your Honor. 09:12AM
3 He's already testified as to all this background six weeks 09:12AM
4 ago. 09:12AM

5 MS. M. MILLER: Which means the foundation has 09:12AM
6 been laid. So I either lay it again -- 09:12AM

7 MR. MARTIN: Your Honor, that's totally 09:12AM
8 inappropriate -- 09:12AM

9 THE COURT: Okay, wait, wait, wait. 09:12AM

10 MS. M. MILLER: -- or I don't lay it again. 09:12AM

11 THE COURT: I'm sorry. Ms. Miller, yes. 09:12AM

12 Go ahead, Mr. Martin. Go ahead. 09:12AM

13 MR. MARTIN: It wasn't laid because he's not an 09:12AM
14 expert, Your Honor, and so he can't testify to expert 09:12AM
15 opinions. 09:12AM

16 MS. M. MILLER: This is not an expert opinion. 09:12AM
17 He's been an IRS criminal investigation agent for 20 years. 09:12AM

18 THE COURT: Okay, the Court notes that. The 09:12AM
19 Court notes that. 09:12AM

20 Anything further, Mr. Martin? 09:12AM

21 MR. MARTIN: No, Your Honor. 09:12AM

22 THE COURT: All right, the Court will overrule 09:12AM
23 the objection. You may proceed. 09:12AM

24 MS. M. MILLER: Thank you, Your Honor. 09:12AM

25 BY MS. M. MILLER: (CONTINUING) 09:12AM

1 Q. Could you, please, tell the members of the jury what
2 are the indicators that you look for when you're doing an
3 investigation to determine whether a corporation is a valid
4 corporation?

5 MR. MARTIN: Your Honor, this is expert
6 testimony; I object.

7 MS. M. MILLER: And you already overruled it.
8 And, Your Honor --

9 THE COURT: Wait, wait, wait.

10 MS. M. MILLER: We're never going to get done
11 with this trial.

12 THE COURT: All right, calm down, Counsels. We
13 don't need -- I don't need every -- I just want you guys to
14 focus on the objections.

15 Any -- what else, Mr. -- you made the same
16 objection.

17 MS. MCCONWELL: We'll join and I'm also objecting
18 to foundation --

19 THE COURT: All right.

20 MS. MCCONWELL: -- to her question.

21 THE COURT: The Court will overrule -- the Court
22 will overrule the objection. You may proceed.

23 MS. M. MILLER: Thank you, Your Honor.

24 Ms. Santos, do you have a marker that I can use
25 on the white board?

1 (Pause.)

09:13AM

2 MS. MCCONWELL: And, Your Honor, I would also
3 object to this being cumulative. Ms. Jone[sic] has already
4 testified, and while she was testifying, they were -- they
5 discussed markers and a number of other items. This is
6 cumulative testimony, and she was their person that was
7 designated as an expert, not Mr. Khamvongsa.

09:13AM

09:13AM

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09:13AM

8 THE COURT: So what -- what's the objection,
9 though, I'm sorry?

09:13AM

09:13AM

10 MS. MCCONWELL: Cumulative. This is all
11 cumulative --

09:13AM

09:13AM

12 THE COURT: On this -- on this --

09:13AM

13 MS. MCCONWELL: -- testimony.

09:13AM

14 THE COURT: On this last issue of -- well, the
15 last question?

09:14AM

09:14AM

16 MS. MCCONWELL: On this last question and the
17 line of questioning, this is cumulative to Ms. Jones'
18 testimony.

09:14AM

09:14AM

09:14AM

19 THE COURT: Is it -- is it cumulative --

09:14AM

20 MS. M. MILLER: Not at all.

09:14AM

21 THE COURT: No, Ms. Jones, though, did go through
22 what constitutes a --

09:14AM

09:14AM

23 MS. M. MILLER: Not a valid corporate structure.

09:14AM

24 MS. MCCONWELL: Yes, she did.

09:14AM

25 MS. M. MILLER: Her testimony was based solely on

09:14AM

Direct - Khamvongsa

1 the Quickbook records and her analysis of the bank
2 transactions. It was not an issue of the companies
3 themselves, which is a nuanced but important distinction
4 between the two. Because Special Agent Khamvongsa, as an IRS
5 criminal investigation agent --

6 MS. MCCONWELL: Your Honor --

7 MS. M. MILLER: -- has a different role and a
8 different responsibility --

9 THE COURT: Okay, the Court --

10 MS. M. MILLER: -- as a forensic accountant.

11 THE COURT: All right. Very well. The Court
12 notes that. Go ahead.

13 MS. MCCONWELL: Well, I object to Ms. Miller
14 testifying and not soliciting whatever information's going to
15 come in --

16 THE COURT: All right.

17 MS. MCCONWELL: -- through a witness.

18 THE COURT: All right. Very well. The Court
19 will overrule the objection. You may proceed.

20 MS. M. MILLER: Yes, Your Honor.

21 THE COURT: Let's just go quickly through --

22 MS. M. MILLER: Yes, Your Honor.

23 THE COURT: -- what is required.

24 BY MS. M. MILLER: (CONTINUING)

25 Q. So, Special Agent Khamvongsa, we're going to use this

Direct - Khamvongsa

1 board, and I'm going to keep it back here. 09:14AM

2 MS. M. MILLER: Could we turn it so that the jury 09:15AM

3 could see it. Did we lose our three-legged stool? 09:15AM

4 THE COURT: Yeah, we lost it in COVID. 09:15AM

5 MS. M. MILLER: We lost one of our legs here. 09:15AM

6 THE COURT: Yes, Mr. Martin, I see you standing 09:15AM

7 up? 09:15AM

8 MR. MARTIN: I'd like to be able to see the board 09:15AM

9 as well. 09:15AM

10 THE COURT: Okay, let's -- let's zoom in on this. 09:15AM

11 Let's see, okay, try to zoom in on this. Try to do that. 09:15AM

12 Okay. 09:15AM

13 BY MS. M. MILLER: (CONTINUING) 09:15AM

14 Q. Special Agent -- 09:15AM

15 THE COURT: Okay, hold on, hold on. Let's see if 09:15AM

16 we can get -- make sure that Mr. Martin and defense team can 09:15AM

17 see this. So we'll zoom in on the chart there, the easel. 09:15AM

18 And so, Mr. Martin, can you see that in your -- 09:15AM

19 your computer screen there or is that too -- we'll try to make 09:15AM

20 it -- 09:15AM

21 MR. MARTIN: I can see what Ms. Miller has 09:15AM

22 written on there. 09:15AM

23 THE COURT: Okay, very good. 09:15AM

24 MS. M. MILLER: Perfect. 09:15AM

25 THE COURT: Okay. If you can't, just let me 09:15AM

Direct - Khamvongsa

1 know.

09:15AM

2 All right. You may proceed. Make sure that we
3 have a dark, dark --

09:15AM

09:15AM

4 MS. M. MILLER: Yeah, this is a -- it's black
5 marker.

09:15AM

09:15AM

6 THE COURT: Is it dark enough? Okay.

09:15AM

7 MS. M. MILLER: I think now with the camera on
8 it, I think everyone will be able to see it --

09:15AM

09:15AM

9 THE COURT: Okay.

09:15AM

10 MS. M. MILLER: -- better.

09:16AM

11 THE COURT: Okay, go ahead.

09:16AM

12 BY MS. M. MILLER: (CONTINUING)

09:16AM

13 Q. So Special Agent Khamvongsa, could you please tell
14 the members of the jury what is one of the indicators that you
15 look for as an investigator with the IRS for a valid corporate
16 structure?

09:16AM

09:16AM

09:16AM

09:16AM

17 A. First of all, I look at independent assets; does the
18 corporation actually control that asset?

09:16AM

09:16AM

19 Q. And what is the next thing you look for?

09:16AM

20 A. Independent employees; who do the employees actually
21 work for.

09:16AM

09:16AM

22 Q. And what else do you look for?

09:16AM

23 A. Shared ownership; in a corporation, it's made up --
24 there are shares that make up the corporation and so those
25 shares are bought up by investors and those investors have a

09:16AM

09:17AM

09:17AM

Direct - Khamvongsa

1 voting right.

2 MS. MCCONWELL: Your Honor, I'm going to object
3 to this line. I object to foundation for this witness being
4 able to testify about physically corp -- it sounds like he's
5 testing[sic] about corporate law and he's trying to inform the
6 jury about who investors are. There is no foundation for him
7 to provide any of this testimony, regardless of the fact he's
8 been an agent for 20 years.

9 MR. MARTIN: I join in the objection, Your Honor.
10 I object, this -- I object to the testimony of him -- they're
11 making him an expert. He's not designated an expert and
12 they're trying to do that.

13 THE COURT: All right. Ms. Miller?

14 MS. M. MILLER: Yes, Your Honor. We're not
15 asking him any questions about opinions that would normally be
16 an expert-only opinion. We're asking him facts that he relies
17 on in investigation. That is an appropriate line of inquiry
18 and it is extraordinarily relevant in this case where the
19 defendant used all of these shell companies --

20 MR. MARTIN: I object --

21 THE COURT: You don't have to get into the --

22 MS. M. MILLER: Yes, Your Honor.

23 THE COURT: I agree with that, that objection is
24 sustained. Let's go back for a second. With regard to his --
25 he's going through the corporate -- what he believes are

1 corporate requirements. But with regard to the foundation,
2 the particular objection is, what is his background to know
3 what constitutes a valid corporation. The Court --

4 MS. M. MILLER: And when I asked that, the
5 objection was cumulative because it was asked and established
6 already. So which way are we going to go? I'm happy to go
7 back and lay the foundation again and let the jury hear again
8 about all of his training and experience. And then you know
9 what's going to happen --

10 THE COURT: Wait, wait. We know. Mr. Martin, go
11 ahead.

12 MR. MARTIN: Your Honor, I'm going to object to
13 everything she does that I think is inappropriate. It's my
14 job to do that. If she wants me to pick one side or the
15 other, I'm picking 'em all. It's my job to defend my client.
16 And I am offended when people keep making -- testifying about
17 facts that have not been testified to in this case and I want
18 the Court to instruct her --

19 THE COURT: That's right.

20 MS. M. MILLER: Your Honor --

21 THE COURT: No, Ms. Miller, the Court will warn
22 you, just focus on the objection. If the objection is
23 foundation, all you have to say is "I've already done it,
24 you've already said it." Okay.

25 MS. M. MILLER: I've already done it, you've

1 already said it.

09:19AM

2 THE COURT: Simple. Brevity is better.

09:19AM

3 MS. M. MILLER: Perfect.

09:19AM

4 THE COURT: But let's not get into an analysis of
5 why, team. We don't care about that. I can figure that out.
6 All right, yes?

09:19AM

09:19AM

7 MS. MCCONWELL: And, Your Honor, I'm also going
8 -- I have an objection that this is beyond the scope of what
9 this witness was identified to testify regarding.

09:19AM

09:19AM

10 THE COURT: All right. So the Court will
11 overrule the objection on the last objection. But on this
12 objection on the corporate structure, the Court will allow
13 Counsel, Ms. Miller, to just focus in on that particular
14 part --

09:19AM

09:19AM

09:19AM

09:19AM

09:19AM

09:19AM

15 MS. M. MILLER: Yes, Your Honor.

09:19AM

16 THE COURT: -- his knowledge, background,
17 experience, just on -- zoom in. Not the entire breadth --
18 depth and breadth of your resume, just that part. Go ahead.

09:19AM

09:19AM

09:20AM

19 BY MS. M. MILLER: (CONTINUING)

09:20AM

20 Q. So can you please tell the members of the jury, what
21 training, education and experience you have that allows you to
22 testify about your investigations into corporate structures?

09:20AM

09:20AM

09:20AM

23 A. So the -- with the IRS criminal investigation, I
24 received extensive training as it relates to corporations.
25 Oftentimes, through the course of our investigations,

09:20AM

09:20AM

09:20AM

Direct - Khamvongsa

1 corporations can be abused and used to conceal the beneficiary
2 and conceal criminal acts. Corporations are their own legal
3 entities separate from the owners, but --

4 MR. MARTIN: Your Honor, I object to the
5 narrative here. The question was what training he had. Now
6 he's giving a lecture on what this does and I object it's a
7 narrative.

8 THE COURT: Objection will be sustained. Just
9 like, you know, what school did you go to, to learn about
10 this. Or what training, you know, like that. What experience
11 -- in terms of experience, you just say how many times you had
12 to testify regarding the adequacy of the corporation. That's
13 it. Just that simple.

14 THE WITNESS: Yes.

15 THE COURT: You know --

16 THE WITNESS: My apologies, Your Honor.

17 THE COURT: Okay, go ahead.

18 THE WITNESS: I've had -- every year, we go
19 through continuing professional education, I received training
20 at the Federal Law Enforcement Training Center. I received
21 continuous training through the IRS. It's... that's it.

22 BY MS. M. MILLER: (CONTINUING)

23 Q. Okay. And when you say you received training, do you
24 actually attend classes?

25 A. Yes.

1 Q. What was your undergrad degree in? 09:21AM

2 A. It was in accounting. 09:21AM

3 Q. Okay. And in accounting, I was an accounting major 09:21AM
4 as well, can you tell the members of the jury what you learn 09:21AM
5 about corporations when you are going through an undergraduate 09:21AM
6 degree in accounting? 09:21AM

7 A. We learn how the corporation is made, the purpose 09:21AM
8 behind the corporation, um, how it's beneficial to an 09:21AM
9 individual or groups of individuals. 09:21AM

10 Q. And when you go through your training to become an 09:22AM
11 IRS criminal investigations agent, how long do you go through 09:22AM
12 that training? 09:22AM

13 A. IRS criminal investigation has one of the longest 09:22AM
14 training programs. It runs about 6 to 8 months. 09:22AM

15 Q. Okay. So in addition to your four-year college 09:22AM
16 degree, you also went to training for 6 to 8 months to become 09:22AM
17 a criminal investigation agent; is that correct? 09:22AM

18 A. That's correct. 09:22AM

19 Q. And were some of the classes that you took or the 09:22AM
20 seminars that you took related to the validity of corporate 09:22AM
21 entities? 09:22AM

22 A. Absolutely. 09:22AM

23 Q. And is that where you learned how to investigate a 09:22AM
24 case that involves a corporation? 09:22AM

25 A. Yes. 09:22AM

Direct - Khamvongsa

1 Q. And have you had many hours of studying that? 09:22AM

2 MR. MARTIN: Your Honor, I object to the 09:22AM
3 continual leading of this witness. 09:22AM

4 MS. M. MILLER: It's laying a foundation. 09:22AM
5 Leading is appropriate in laying a foundation. 09:22AM

6 THE COURT: Let him finish the objection -- 09:22AM

7 MS. M. MILLER: He did. 09:22AM

8 THE COURT: No, he didn't. He was in 09:22AM
9 mid-sentence. 09:22AM

10 MS. M. MILLER: Foundation. 09:22AM

11 THE COURT: He was in mid-sentence. He was still 09:22AM
12 going. Yes, go ahead. 09:22AM

13 MR. MARTIN: My objection is to the continual 09:22AM
14 leading of this witness. 09:23AM

15 THE COURT: You know what, it's been a long time 09:23AM
16 since I've been with these lawyers. (Laughing.) I feel like 09:23AM
17 I never left. Go ahead. Mr. Martin, go ahead. 09:23AM

18 MR. MARTIN: My objection is to the continuous -- 09:23AM
19 she's asked five leading questions in a row. It's 09:23AM
20 inappropriate. 09:23AM

21 THE COURT: All right. So generally, the Court 09:23AM
22 does allow for foundational questions, I do allow leading. So 09:23AM
23 the Court will overrule the objection. All right. I think 09:23AM
24 he's getting -- wrap it up. 09:23AM

25 MS. M. MILLER: Absolutely. I think that's 09:23AM

1 sufficient.

2 BY MS. M. MILLER: (CONTINUING)

3 Q. So let's move on now to the next question. Can you
4 tell the members of the jury, based on your training,
5 education, experience, what else do you look for when you are
6 trying to determine whether a corporation is valid?

7 MR. MARTIN: To which I object, Your Honor, is an
8 expert opinion and he's not been designated.

9 THE COURT: Overruled. Go ahead.

10 THE WITNESS: Shared decision making. Because
11 with investors, when like earlier I talked about voting power,
12 you vote in a board of directors and it's those board of
13 directors that decide how the corporation is going to operate.
14 So it's a shared decision-making process.

15 BY MS. M. MILLER: (CONTINUING)

16 Q. And what else do you look for?

17 A. Recorded meetings. So oftentimes, these board of
18 directors meet and these meetings are recorded so that these
19 meetings are transparent to the investors.

20 Q. And what else do you look for?

21 A. Shared profits.

22 Q. And tell us what you mean by *shared profits*?

23 A. So a corporation's sole purpose is to generate money,
24 generate profits, and oftentimes, these profits are shared
25 with the investors as dividends.

1 Q. In this case, did you take what you had learned from 09:24AM
2 your education, training and experience, about valid corporate 09:24AM
3 entities, and apply it to the information that was seized from 09:24AM
4 the defendants regarding the Vanuatu companies? 09:24AM

5 A. Yes. 09:25AM

6 Q. And could you please tell the members of the jury, 09:25AM
7 first, did you -- what did you find about whether these 09:25AM
8 Vanuatu companies had independent assets? 09:25AM

9 A. There are none. 09:25AM

10 Q. What did you find about whether these Vanuatu 09:25AM
11 companies had independent employees? 09:25AM

12 A. There were none. 09:25AM

13 MR. MARTIN: Your Honor, I object to this line of 09:25AM
14 questioning not being related to Counts 100 through 110, which 09:25AM
15 was the substance of what the government provided to Counsel 09:25AM
16 for defense in this case that this witness's testimony would 09:25AM
17 go to. And this has nothing whatsoever to do with Counts 100 09:25AM
18 through 110, and I ask that the testimony be stricken. 09:25AM

19 MS. MCCONWELL: And Hansen joins. 09:26AM

20 MS. M. MILLER: May I respond, Your Honor? 09:26AM

21 THE COURT: Yeah, does it relate to 100 to 110? 09:26AM

22 MS. M. MILLER: It absolute relates to Count 99 09:26AM
23 which is conspiracy to commit wire fraud -- 09:26AM

24 THE COURT: Okay. So you agree that we're not 09:26AM
25 focusing on 100 -- 09:26AM

1 MS. M. MILLER: No, I do not agree. Absolutely
2 not. As a matter of fact --

3 THE COURT: All right. You know what, why don't
4 you guys get on your little thingy.

5 Oh, do we still have that?

6 THE CLERK: Yes, Your Honor.

7 THE COURT: Okay, let's try it. Let's do it.
8 Because I can already feel you're going to be
9 objecting, jumping up.

10 (Pause.)

11 THE COURT: You know what, let's just do this,
12 Carm, I'll let the jurors go. 10-minute, 15 minutes, let's
13 take a break. Please rise for the jury.

14 (Jury out at 9:27 a.m.)

15 THE COURT: All right. We're outside the
16 presence of the jury. Yes, Ms. Martin[sic]? What's it
17 relevant to? Okay, so let's just focus on 100 -- let's not
18 get on to 99 yet. On 100 to 110, what's the relevance to
19 that?

20 MS. M. MILLER: The relevance to that, Your
21 Honor, is if you look at Counts 100 through 104, those are
22 specific wire fraud counts and those wire fraud counts involve
23 transfers of funds into an account called Caledonian Insurance
24 Company's bank accounts, and if I could show the Court and
25 remind the Court of the corporate structure of the defendants

1 here, we see Caledonian Agency here. Okay? So the funds that
2 were coming in for the tuna boat contracts were coming into
3 Caledonian Agency --

4 MS. MCCONWELL: Can Agent Khamvongsa step out
5 while we're having this conversation?

6 THE COURT: Oh, yes, Mr. Khamvongsa, you want to
7 step out then?

8 MS. M. MILLER: This is a legal argument. Why
9 does he have to step out? Because we have people sitting
10 there including the defendant's own expert.

11 THE COURT: They think it's a factual argument.
12 That's why.

13 MS. M. MILLER: It's not a factual argument.
14 It's a legal argument about whether the indictment --

15 THE COURT: That's okay. He could step out. He
16 can hold his own. Let's go. All right.

17 MS. M. MILLER: Okay.

18 THE COURT: So, go ahead.

19 MS. M. MILLER: What the evidence is going to
20 show, Your Honor, is that these shell Vanuatu companies
21 entered into the tuna boat contracts with the tuna boat
22 companies, then the money was sent to Caledonian Agency from
23 the payment for these contracts and Caledonian Agency was
24 identified as an investment company.

25 THE COURT: All right.

Direct - Khamvongsa

1 MS. M. MILLER: From Caledonian Agency, the money
2 was then sent out to Hansen Northern and Hansen Helicopters
3 for payment of expenses relating to operating, and then the
4 profit went to Jon Walker.

5 So what we have with the wire fraud counts is we
6 have a situation where these Vanuatu companies were used as
7 shells to enter into these leases with the tuna boat
8 companies, but ultimately, the money is going to Caledonian
9 Agency and then eventually to Jon Walker.

10 So we alleged and we incorporated by reference
11 the allegations that are contained earlier on in our second
12 superseding indict that the defendants used the Vanuatu
13 companies to commit their fraud.

14 As a matter of fact, Mr. Martin and
15 Mr. McConwell, in pleadings filed with this Court,
16 specifically ECF 541 said, that the Vanuatu companies were
17 created to quote, "avoid liability," and that the Vanuatu
18 companies ultimately are all owned, if you follow the trail,
19 by Jon Walker. We have him at the top, and he has all these
20 corporate entities that are used to confuse, deceive, lie, but
21 ultimately, the money all goes back to him.

22 So what they're trying to do is they're trying to
23 create this situation where, Hey, Your Honor, no, it's
24 irrelevant to talk about these other corporate entities as to
25 these counts. No, it's not. Those counts are based on leases

1 that the defendants signed, that they named these corporate
2 entities, these Vanuatu companies as the lessors, despite the
3 fact the companies did not own the helicopters, did not have
4 any employees, did not have any assets, Hansen Helicopters did
5 everything, controlled everything. And Jon Walker is in fact
6 Hansen Helicopters. This goes to the very heart of our alter
7 ego argument to this Court.

8 Additionally, this argument was made by defense
9 Counsel the last time we were here and you, Your Honor,
10 overruled the argument. And we have on the transcript where
11 this Court already heard this argument and already overruled
12 the argument. Mr. Martin knows that.

13 So now all we're doing is we are literally
14 wasting the jury's time because the same arguments are being
15 made that this Court has already overruled. And if he's read
16 that transcript so carefully as he claims he has, then he
17 knows that. But we're trying to interrupt the flow of the
18 evidence to this jury because the evidence is damming to his
19 client. That's not a valid legal basis to raise an objection
20 over and over again that's already been ruled on by this
21 Court. We're one hour into presentation of evidence and we
22 had to excuse the jury to have a legal argument that we
23 already had that this Court has already overruled.

24 THE COURT: All right. Anything further?

25 MR. MARTIN: Yes, a lot, Your Honor. I disagree

1 with everything she just said, Your Honor.

09:32AM

2 MS. M. MILLER: Of course.

09:32AM

3 THE COURT: Okay.

09:32AM

4 MR. MARTIN: When she cited to the Court 541,
5 first of all, that was a motion to suppress relating to the
6 First Superseding Indictment, it has nothing to do with this
7 indictment. It was withdrawn when they filed a superseding
8 indictment.

09:32AM

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09:32AM

9 Secondly, Your Honor, this argument, if she says
10 it's in the transcript, point it out to us, point it out to
11 us. I disagree. We had this argument the last time we were
12 in Court. You sustained it. You said we are limiting this to
13 100 through 110 and 100 through 104 is wire fraud. That means
14 they have to establish a scheme to defraud.

09:32AM

09:32AM

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09:33AM

15 MS. M. MILLER: Exactly.

09:33AM

16 MR. MARTIN: His testimony that he's giving,
17 their scheme to defraud, alleges that they have -- they have
18 alleged these -- pardon me, the helicopters don't meet the
19 standards of the FAA, and therefore, this is wire fraud. It
20 has nothing to do with the corporate structure of these
21 companies.

09:33AM

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09:33AM

22 And so I submit to you, Your Honor, his testimony
23 is way beyond the testimony that he's put -- the government's
24 put in their trial brief and is relevant to the substance of
25 Counts 100 through 110.

09:33AM

09:33AM

09:33AM

09:33AM

Direct - Khamvongsa

1 MS. M. MILLER: The scheme to defraud has 09:33AM
2 everything to do with the Vanuatu companies. We allege that 09:33AM
3 in our Second Superseding Indictment. And the reason why I 09:34AM
4 cited the ECF is because as an officer of the Court, 09:34AM
5 representations were made by both Mr. Martin and Mr. McConwell 09:34AM
6 about the relationship of Jon Walker to all of these corporate 09:34AM
7 entities and they're the ones that tied it all up. And I'll 09:34AM
8 remind the Court in ECF 265, when this case was first brought 09:34AM
9 before the Court, they were saying there is no relation 09:34AM
10 between the Vanuatu company and the defendants. 09:34AM

11 Now let's fast forward, ECF 541, okay, there is a 09:34AM
12 relationship but they're valid corporations. That was one of 09:34AM
13 their defenses. Then they say that the helicopters are owned 09:34AM
14 and registered by Vanuatu companies, which they withdraw that 09:34AM
15 contention in ECF 573 only to raise it again in ECF 1492, 09:34AM
16 which was the subject to the government's motion to strike 09:34AM
17 because the constant misrepresentations by defense Counsel. 09:34AM
18 And, Your Honor, I will cite the Court to the transcript dated 09:34AM
19 June 8th, and the Court said -- 09:35AM

20 MR. MARTIN: Page number, please? 09:35AM

21 (Pause.) 09:35AM

22 MS. M. MILLER: I'm skipping over all the 09:35AM
23 argument to the order. 09:35AM

24 (Pause.) 09:35AM

25 THE COURT: Okay, I'll giving you guys one minute 09:35AM

1 because I'm ready to rule, but go ahead. One minute unless
2 you have anything further. Go ahead and cite to him what
3 you're looking for.

4 MS. M. MILLER: So it starts -- the argument is
5 on page 115 of the transcript. You said, Your Honor, "I
6 suppose they're getting very particular because there is a
7 conspiracy to commit wire fraud charge, and there is straight
8 -- a straight wire fraud charge and there is a straight money
9 laundering charge, okay, got it."

10 Next, your response, the objection and then Ms.
11 Miller responded to the objection. And then your Court -- you
12 said "Anything further, Counsels?"

13 Mr. Martin said, "I laid it out." Mr. McConwell,
14 then Ms. McConwell and then the Court said, "Can you repeat
15 that?" Blah-blah-blah blah blah. Here we go...

16 MR. MARTIN: Just so we are clear, Your Honor, I
17 don't think we have the same transcript because my page 115
18 doesn't have that.

19 MS. M. MILLER: 50, I said. Not 15.

20 THE COURT: Oh, 1-5-0?

21 MS. M. MILLER: 1-5-0.

22 MR. MARTIN: I thought I heard --

23 THE COURT: Okay, 1-5-0.

24 (Pause.)

25 MS. M. MILLER: Boy, we argued a lot.

1 THE COURT: I'm ready to make my ruling but if -- 09:37AM

2 MS. M. MILLER: Yeah, go ahead and make your 09:37AM
3 ruling, Your Honor, because this goes on for pages but the 09:37AM
4 point is -- 09:37AM

5 THE COURT: No, you guys -- I get it. Let me -- 09:37AM
6 I don't think I need to hear anybody -- more arguments. I 09:37AM
7 understand the arguments. It is true that Count 99 talks 09:37AM
8 about the conspiracy to commit wire fraud and I'm looking at 09:37AM
9 the Second Superseding Indictment. I already stated that in 09:37AM
10 the transcript that Ms. Marie Miller just briefly focused on. 09:37AM

11 Counts 100 to 104 zeros in on the underlying wire 09:37AM
12 fraud. So there is a conspiracy to commit the wire fraud in 09:37AM
13 99 and the 100 to 104 is the underlying wire fraud. And then 09:37AM
14 the remaining counts is money laundering that has been the 09:37AM
15 subject of the -- these objections. 09:38AM

16 The whole issue now is coming to light, has been 09:38AM
17 coming to light towards the end of the testimonies before we 09:38AM
18 had our recess was this whole issue of the shell company 09:38AM
19 motion, the alter ego defense, whether or not the Court can 09:38AM
20 find by -- make a factual finding pursuant to 104(b) of the 09:38AM
21 Federal Rules of Evidence if there is relevance, can the jury 09:38AM
22 reasonably find by a preponderance of the evidence that these 09:38AM
23 are alter ego corporations. And I think that's where we're 09:38AM
24 getting to -- it appears that that's been -- the particular 09:38AM
25 matter that's been heating up, especially during our latest 09:38AM

Direct - Khamvongsa

1 recesses, and the Court notes that.

2 So the Court will overrule the objection and
3 allow him to speak on this issue and include Counts 99
4 through 110. But I will also say that, and just looking back
5 on the issue of expert witness, it's true that the prosecution
6 did not identify or call this latest -- how do you say his
7 name again?

8 MS. M. MILLER: Khamvongsa.

9 THE COURT: Khamvongsa, that's right, as an
10 expert witness. There was no notice of that and that's not
11 what he -- they're trying to propound by him. But he can give
12 testimony as a lay witness and under Federal Rule of Evidence
13 701, if he's not testifying as an expert, he can give opinion
14 testimony if his testimony is rationally based on his
15 perception, it's helpful to clearly understand his testimony
16 or to determine a fact in issue and it's not based on
17 scientific, technical or other specialized knowledge within
18 the scope of Rule 702. Sometimes it does blend, 702 and 701
19 does blend, but he -- I think it's clear that he can testify
20 regarding a lay witness opinion testimony in this regard. So
21 that'll be the order of the Court. And then let's call in the
22 jury. You guys want to take -- what time is our recess
23 supposed to be?

24 MS. M. MILLER: I think it's supposed to be at
25 10:15 maybe.

Direct - Khamvongsa

1 THE COURT: Why don't you guys take a recess and 09:40AM
2 come right back. Yes, Ms. McConwell? I'm sorry. 09:40AM

3 MS. MCCONWELL: I just want to make sure, Hansen 09:40AM
4 Helicopters is not indicted on Counts 99 through 110. 09:40AM

5 THE COURT: And I think the prosecution would 09:40AM
6 agree on that -- 09:40AM

7 MS. M. MILLER: Yes, Your Honor, for the 09:40AM
8 five-thousandth time, we do. 09:40AM

9 THE COURT: Now when it come to jury 09:40AM
10 instructions, we can modify instructions to fit the evidence 09:40AM
11 into -- and so forth. Okay? 09:40AM

12 MS. MCCONWELL: Yes. And I appreciate the 09:40AM
13 prosecutor's frustration, however, we have a record to 09:40AM
14 protect. 09:40AM

15 THE COURT: No, I think -- you know, you don't 09:40AM
16 have to apologize for that. I mean you guys -- you have a 09:40AM
17 right and you have a duty, both of you, Mr. McConwell and 09:40AM
18 Mr. Martin have a duty to protect and zealously advocate -- 09:40AM
19 oh, Mr. -- yeah, I'm sorry, see, you're hiding behind the 09:41AM
20 podium, Mr. Han. I can't see you there. Mr. Han. All you 09:41AM
21 have a duty to zealously safeguard your clients' rights, what 09:41AM
22 you believe them to be, and to advocate for them. So let's 09:41AM
23 take a ten-minute recess and we'll be back. 09:41AM

24 MS. M. MILLER: Yes, Your Honor, thank you. 09:41AM

25 (Recess taken at 9:41 a.m.) 09:41AM

1 (Back on the record at 9:59 a.m.) 09:59AM

2 THE COURT: Let's call in the jury. 09:59AM

3 (Pause.) 09:59AM

4 THE COURT: Welcome back, ladies and gentlemen of 10:00AM

5 the jury. And the Court will overrule the objections and let 10:00AM

6 me just say, thank you for your patience, ladies and 10:00AM

7 gentlemen. And you may proceed, Ms. Miller. 10:00AM

8 MS. M. MILLER: Thank you, Your Honor. 10:00AM

9 BY MS. M. MILLER: (CONTINUING) 10:00AM

10 Q. Special Agent Khamvongsa, could you tell the members 10:00AM

11 of the jury what evidence did you see that, in relation to the 10:00AM

12 Vanuatu companies, there was a shared ownership of the Vanuatu 10:00AM

13 companies? 10:00AM

14 A. There was none. 10:00AM

15 Q. What evidence did you see that there was shared 10:01AM

16 decision making? 10:01AM

17 A. There was none. 10:01AM

18 Q. What evidence did you see of recorded meetings? 10:01AM

19 A. There was none. 10:01AM

20 Q. What evidence did you see that anyone besides Jon 10:01AM

21 Walker received profits? 10:01AM

22 A. There was none of shared profits. 10:01AM

23 Q. What is a wire? 10:01AM

24 A. A wire is a telecommunication -- an electronic 10:01AM

25 telecommunication such as a phone, an e-mail, an instant 10:01AM

Direct - Khamvongsa

1 message through social media, communications between banks 10:01AM
2 such as a wire transfer, a fax. Those are some of the things 10:01AM
3 that make up a wire. 10:01AM

4 Q. Okay. And could you tell the members of the jury 10:01AM
5 what an originator of a wire transfer is? 10:01AM

6 A. Originator of a wire transfer, an OBI, often referred 10:02AM
7 to or identified within a bank statement, just -- just says 10:02AM
8 that the originator may come from one bank and that the B, 10:02AM
9 beneficiary, is that's where is that wire going to, who is 10:02AM
10 benefitting from that wire. 10:02AM

11 Q. And could you tell the members of the jury also, when 10:02AM
12 you have a wire in relation to the counts in this case, is 10:02AM
13 there some aspect of cross state lines or international lines 10:02AM
14 or anything like that? 10:02AM

15 A. Yes, in -- in regards to wires -- the wires in this 10:02AM
16 case, the wires crossed international and state lines. 10:02AM

17 Q. Okay. And how are the leases paid for the tuna boat 10:02AM
18 and the pilots and the mechanics? 10:02AM

19 A. The fishing companies, or the tuna boat companies, 10:02AM
20 pay by a wire transfer. 10:02AM

21 Q. Okay. And can you explain to the jury what you mean 10:03AM
22 when you say wire transfer in conjunction with this case? 10:03AM

23 A. So, in reviewing the bank statements, a wire transfer 10:03AM
24 is identified, and that's an electronic communication, from 10:03AM
25 one bank to another saying that this amount of money is going 10:03AM

1 from one bank account to another bank account.

10:03AM

2 Q. And can you tell the members of the jury what
3 happened around the year 2000, in this case, that changed the
4 way Hansen Helicopters was operating?

10:03AM

10:03AM

10:03AM

5 A. So around 2000 is when Jon Walker acquired Hansen
6 Helicopters. In 2000 is when the Vanuatu companies were first
7 created. Around that same time is when Hansen Helicopters
8 stopped registering the helicopters in their name and suddenly
9 they're in the names of the Vanuatu companies.

10:03AM

10:03AM

10:03AM

10:03AM

10:03AM

10 Q. Which bank accounts were funds deposited into from
11 the leases?

10:03AM

10:03AM

12 A. The funds were deposited into Caledonian Agency
13 Inc.'s bank account.

10:04AM

10:04AM

14 Q. Okay. And based on the bank records, could you tell
15 the members of the jury, what kind of company was Caledonian
16 Agency?

10:04AM

10:04AM

10:04AM

17 A. Caledonian Agency is -- its nature of business is an
18 investment.

10:04AM

10:04AM

19 Q. Could you tell the members of the jury what you did
20 to obtain information from Hansen Helicopters in this case in
21 relation to these transactions?

10:04AM

10:04AM

10:04AM

22 A. I issued a grand jury -- I issued a grand jury
23 subpoena for all financial records for Hansen Helicopters and
24 its subsidiaries, for -- including its fleet reg- -- its
25 entirety of its fleet, the schedule of billings and

10:04AM

10:04AM

10:04AM

10:04AM

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1 collections, the pilots and mechanics that they employ, and --
2 and those are but a few of some of the things in which we
3 subpoenaed.

4 Q. Okay. I'd like to show you what has been previously
5 marked --

6 MS. M. MILLER: But not entered into evidence
7 yet, Your Honor.

8 BY MS. M. MILLER: (CONTINUING)

9 Q. -- Exhibit 726. You're going to see it come up in
10 front of you. Do you see that document, sir?

11 A. Yes.

12 Q. Do you recognize it?

13 A. Yes.

14 Q. What is it?

15 A. This is one of the documents that came as a result of
16 the grand jury subpoena. This is a Wilma's Flight Services,
17 Inc. top level schedule of billings and collections.

18 Q. And who did you receive this document from?

19 A. From Hansen Helicopters.

20 MS. M. MILLER: Your Honor, at this time the
21 Government would offer into evidence what has been previously
22 marked as Government's Exhibit 726.

23 THE COURT: Counsel?

24 MR. MARTIN: No objection, Your Honor, on behalf
25 of Mr. Walker.

1 MS. MCCONWELL: And, Your Honor, I would ask that
2 the admission be limited to Mr. Walker, because this is used
3 for the purpose of these Counts 99 through 110, which Hansen
4 Helicopters has not been charged with.

5 MS. M. MILLER: And, Your Honor, again, you've
6 already given that instruction to the jury multiple times. I
7 don't think it's necessary to do it again. And as, Your
8 Honor, has heard, our contention is that these companies were
9 alter egos of --

10 THE COURT: Right.

11 MS. M. MILLER: -- Jon Walker.

12 THE COURT: Right. All right. So the Court will
13 -- ladies and gentlemen, for Exhibit G-726, without objection,
14 as to Mr. Walker, will be admitted and you may review. And
15 then with regard to the limiting instruction, the Court has
16 given the limiting instruction, so I don't think I need to do
17 that any further.

18 MS. MCCONWELL: Right. I just wanted to make
19 sure it was not admitted to Hansen Helicopters, solely to Jon
20 Walker, but that's it. Thank you, Your Honor.

21 THE COURT: Well, all right.
22 (Exhibit G-726 admitted.)

23 THE COURT: Counsel?

24 MS. M. MILLER: Yes, Your Honor.

25 THE COURT: So --

1 MS. M. MILLER: You're going to instruct the jury 10:07AM
2 at end of the case pursuant to the -- 10:07AM

3 THE COURT: So -- okay, so we don't need to argue 10:07AM
4 this case. 10:07AM

5 MS. M. MILLER: Yes. 10:07AM

6 THE COURT: Okay. Next question. 10:07AM

7 MS. M. MILLER: May I publish it, Your Honor? 10:07AM

8 THE COURT: You may. 10:07AM

9 MS. M. MILLER: Thank you. 10:07AM

10 And, Ms. Miller, if you are driving or is 10:07AM

11 Mr. Leon Guerrero driving? You're driving. Mr. Leon 10:07AM

12 Guerrero, can you first hone in on just the very top portion. 10:07AM

13 Yes, sir. Thank you. 10:07AM

14 BY MS. M. MILLER: (CONTINUING) 10:07AM

15 Q. Now, just to make it clear for the jurors what we're 10:07AM
16 talking about, who did you issue the grand jury subpoena to? 10:07AM

17 A. Hansen Helicopters. 10:07AM

18 Q. And what did you ask for? 10:08AM

19 A. Again, I asked for all financial records relative to 10:08AM
20 the leasing of the helicopters as well as the pilots and 10:08AM
21 mechanics, their identifications, any accounts which we 10:08AM
22 receive the tuna boat money, or the lease payments from the 10:08AM
23 tuna boats, those are but a few of the things we asked. 10:08AM

24 Q. Could you tell the members of the jury, Wilma's 10:08AM
25 Flight Services, Inc., who's Wilma's Flight Services, Inc., 10:08AM

1 based on your investigation and review of the records? 10:08AM

2 A. Wilma Flight Services, Inc. is a -- is a corporation 10:08AM
3 belonging to Jon Walker. 10:08AM

4 Q. Where was Wilma's Flight Services, Inc. incorporated? 10:08AM

5 A. It was incorporated here in Guam. 10:08AM

6 Q. Does that make it a U.S. corporation? 10:08AM

7 A. Yes. 10:08AM

8 Q. Do you know why, in Exhibit 829, the defendants' 10:08AM
9 identify Wilma's Flight Services -- 10:09AM

10 MR. MARTIN: Your Honor, I object to the question 10:09AM
11 -- 10:09AM

12 BY MS. M. MILLER: (CONTINUING) 10:09AM

13 Q. -- as a -- 10:09AM

14 MS. M. MILLER: I'm not even finished with -- 10:09AM

15 THE COURT: Okay, wait, wait. 10:09AM

16 MS. M. MILLER: -- my question is yet. 10:09AM

17 THE COURT: All right. Yeah, don't answer the 10:09AM
18 question. Let -- let's hear the question. 10:09AM

19 MS. M. MILLER: Can I finish the question? 10:09AM

20 THE COURT: It sounds like speculation, but go 10:09AM
21 ahead. 10:09AM

22 BY MS. M. MILLER: (CONTINUING) 10:09AM

23 Q. Can you tell the jurors why, in Exhibit 829, the 10:09AM
24 defendants list Wilma's Flight Service as a Vanuatu company 10:09AM
25 even though we have records that it was incorporated in the 10:09AM

1 U.S.?

10:09AM

2 THE COURT: Okay. Hold on. Objection?

10:09AM

3 MR. MARTIN: I'll adopt the Court's -- sounds
4 like speculation. Secondly, Your Honor, the defendants, I
5 would ask Ms. Miller to identify who she is referring to,
6 because there is no indication that Mr. Walker --

10:09AM

10:09AM

10:09AM

10:09AM

7 THE COURT: Fair enough.

10:09AM

8 MR. MARTIN: -- had anything to do with that
9 exhibit, and I object to it.

10:09AM

10:09AM

10 THE COURT: All right. So the Court will sustain
11 the -- the last objection -- and both objections, yeah,
12 sustained.

10:09AM

10:09AM

10:09AM

13 MS. M. MILLER: So --

10:09AM

14 THE COURT: Rephrase on the --

10:09AM

15 MS. M. MILLER: Yes, Your Honor.

10:09AM

16 THE COURT: -- question. And then if you want to
17 identify a specific defendant if it applies to --

10:09AM

10:09AM

18 MS. M. MILLER: Yes, Your Honor.

10:09AM

19 THE COURT: All right, very well.

10:09AM

20 BY MS. M. MILLER: (CONTINUING)

10:09AM

21 Q. So Mr. Khamvongsa, this exhibit --

10:09AM

22 THE COURT: Can you just state what exhibit
23 number is that?

10:10AM

10:10AM

24 MS. M. MILLER: Yes, it's Exhibit 829 --

10:10AM

25 THE COURT: Okay.

10:10AM

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1 MS. M. MILLER: -- but this was, Your Honor, just
2 for the record, filed in Document 541 by both Jon Walker's
3 attorney and --

4 MR. MARTIN: I object to whose --

5 MS. M. MILLER: -- Hansen Helicopters' attorney.

6 THE COURT: All right, hold on. I'm sorry,
7 objection?

8 MR. MARTIN: Your Honor --

9 THE COURT: Sustained. The objection will be
10 sustained. Let's just focus on -- we don't need to get into
11 the --

12 MS. M. MILLER: Well, because --

13 THE COURT: No, no, wait, Counsel. We don't need
14 to -- it's not relevant --

15 MS. M. MILLER: No, no --

16 THE COURT: Wait, wait. It's not relevant as to
17 prior filings and motions at this point. So as far as it's
18 being -- it's already been admitted in this Court.

19 MS. M. MILLER: This is already admitted.

20 THE COURT: Yeah, that's all I care about.

21 MS. M. MILLER: And I was just clarifying
22 something Your Honor, Mr. Martin said that his client did
23 not --

24 THE COURT: All right. So --

25 MS. M. MILLER: -- submit this.

1 THE COURT: -- the Court has that. All right. 10:10AM

2 MS. M. MILLER: That was not correct. 10:10AM

3 THE COURT: All right. 10:10AM

4 MR. MARTIN: That is correct, Your Honor, and -- 10:10AM

5 MS. M. MILLER: That is not correct. 10:10AM

6 THE COURT: All right, Counsel, Counsel, we'll 10:10AM

7 get back on that issue. 10:10AM

8 MS. M. MILLER: Okay. 10:10AM

9 THE COURT: The Court will sustain that objection 10:10AM

10 at this time. We'll come back to that issue later during a 10:10AM

11 break -- 10:10AM

12 MS. M. MILLER: Yes. Thank you, Your Honor. 10:10AM

13 THE COURT: -- and we'll talk about that. But as 10:10AM

14 far as it being submitted for this Court purposes admitted 10:10AM

15 here -- 10:11AM

16 MS. M. MILLER: Yes. 10:11AM

17 THE COURT: -- the Court does -- notes for the 10:11AM

18 record that -- it's Exhibit what number? 10:11AM

19 MS. M. MILLER: 829, Your Honor. 10:11AM

20 THE COURT: All right. You may proceed. 10:11AM

21 MS. M. MILLER: Thank you, Your Honor. 10:11AM

22 THE COURT: And we'll get back together that 10:11AM

23 issue, Mr. Martin. 10:11AM

24 Go ahead. 10:11AM

25 MS. M. MILLER: Thank you, Your Honor. 10:11AM

1 BY MS. M. MILLER: (CONTINUING)

2 Q. Sir, where is Wilma's Flight Service on this
3 document?

4 A. I can't see it.

5 MS. M. MILLER: Can I --

6 THE WITNESS: Could you please --

7 MS. M. MILLER: Can I approach?

8 THE COURT: You may.

9 THE WITNESS: Okay. Wilma's Flight --

10 THE COURT: Why don't you go -- why don't you go
11 on the other side, so you don't block the jury's view of him.

12 MS. M. MILLER: Oh, what I could do, is I could
13 do this, Your Honor.

14 THE COURT: Oh, oh, okay.

15 BY MS. M. MILLER: (CONTINUING)

16 Q. Special Agent Khamvongsa, you want to step down point
17 to where it is?

18 THE COURT: Okay, you can. And then let's just
19 get a -- let's get a --

20 MS. M. MILLER: Sure.

21 THE COURT: -- a visual for the defense
22 Counsels --

23 MS. M. MILLER: Okay, okay.

24 THE COURT: -- to see it.

25 Carmen -- okay, hold on, let's see if Carmen can

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1 get the defense Counsels to see where he's pointing to. 10:11AM

2 Can you -- can you all see? 10:11AM

3 MS. M. MILLER: No. 10:11AM

4 THE COURT: Okay. Yeah, go ahead. Okay, let's 10:11AM
5 see -- hold on, hold on, hold on, one second. I want to 10:12AM
6 see -- we'll get you on the screen. 10:12AM

7 MS. M. MILLER: You'll be able to see it. 10:12AM
8 Carmen's gonna get the camera on it and then -- 10:12AM

9 (Discussion with the clerk.) 10:12AM

10 THE COURT: Oh, mic. You have a mic? Yeah, 10:12AM
11 okay, go to the mic there. That's fine. Can you -- there you 10:12AM
12 go. 10:12AM

13 THE WITNESS: Wilma's Flight Services is located, 10:12AM
14 within this document, under the 30 Vanuatu international 10:12AM
15 companies here at the very bottom. 10:12AM

16 BY MS. M. MILLER: (CONTINUING) 10:12AM

17 Q. Okay. Thank you, sir. Thank you. 10:12AM

18 A. Thanks. 10:12AM

19 Q. What evidence did you see, in your review of all of 10:12AM
20 the evidence in this case, that Wilma's Flight Service was in 10:12AM
21 fact a Vanuatu company? 10:12AM

22 A. I've seen none. 10:12AM

23 Q. And this document that was just admitted into 10:12AM
24 evidence that was received from Hansen Helicopters says 10:12AM
25 Wilma's Flight Service, Inc. schedule of billings and 10:12AM

1 collections, can you tell the members of the jury what other
2 documents did you see besides these types of documents that
3 identified any other company as having a schedule of billings
4 and collections?

5 A. I've seen none.

6 Q. So all of the billings for the tuna boat contracts
7 went through Wilma's?

8 A. Yes.

9 MS. M. MILLER: And now, Mr. Leon Guerrero, if
10 you could pull out, so the jury could see the rest of this
11 document -- maybe you could just go across the entire document
12 but a small portion. No, no, much shorter. Yeah, there you
13 go.

14 BY MS. M. MILLER: (CONTINUING)

15 Q. So can you walk us through the columns in this
16 document, sir? First, on the left-hand side, we see fishing
17 companies. Could you tell the members of the jury what this
18 is referencing?

19 A. This is identifying all the fishing -- fishing
20 companies that have leases with Hansen Helicopters and its
21 subsidiaries.

22 Q. And then the next column says boat name, could you
23 explain to the jury what we are seeing there?

24 A. So these are the various boats which had the
25 helicopters assigned to them, so they're generating invoices

1 for those services.

10:14AM

2 Q. Okay. And then invoice number, what is that
3 referencing?

10:14AM

10:14AM

4 A. That references the period and the time billed.

10:14AM

5 Q. Okay. What about date billed?

10:14AM

6 A. Again, it's the date billed to the company.

10:14AM

7 Q. To the tuna boat company?

10:14AM

8 A. To the tuna boat company, correct, or the fishing
9 company.

10:14AM

10:14AM

10 Q. And then it says period covered, what does that
11 reference?

10:14AM

10:14AM

12 A. That's the period in what they're billing for the
13 lease agreement --

10:14AM

10:14AM

14 Q. Okay. So if you --

10:14AM

15 A. -- where the lease --

10:14AM

16 Q. -- look at the first row, that's a one-month period;
17 is that correct?

10:14AM

10:14AM

18 A. That's correct.

10:14AM

19 Q. And then in the column amount, what are we seeing
20 there?

10:14AM

10:14AM

21 A. That's the amount being billed to the tuna boat
22 companies.

10:14AM

10:15AM

23 Q. And then where see a column for fishing see --
24 fish -- shipping fee overtime, downtime, what are where seeing
25 there?

10:15AM

10:15AM

10:15AM

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1 A. Again, that's in relation to any fees generated, any
2 overtime or any downtime costs which may affect the overall
3 billing to the fishing company.

4 Q. Okay. And this is one example of many that you
5 received in terms of the documents from Hansen Helicopters?

6 A. Yes.

7 Q. Okay.

8 MS. M. MILLER: Thank you, Stephen.

9 BY MS. M. MILLER: (CONTINUING)

10 Q. How much money total did the evidence demonstrate to
11 you was received as a result of these fishing contracts?

12 A. In total during -- at least during the timeframe from
13 2000-present, \$400 million.

14 Q. Okay. Now, could you tell the members of the jury,
15 Wilma's Flight Service, who's the president of Wilma's Flight
16 Service?

17 A. Mr. Jon Walker.

18 Q. Who is the signer on the bank accounts for Wilma
19 Flight Service?

20 A. Defendant Jon Walker.

21 Q. You said that the funds from these billings went into
22 a company called Caledonian Agency; is that correct?

23 A. Yes, Cal -- it went into a bank account for
24 Caledonian Agency, Inc., which is with Bank of Hawaii here in
25 Guam.

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1 MS. MCCONWELL: Your Honor, I would object. I'd
2 ask for a timeframe. It's -- it's just unclear.

3 THE COURT: Okay. Ms. -- you want to get a
4 timeframe on that, please?

5 MS. M. MILLER: Yes, Your Honor.

6 THE WITNESS: My -- my review of the records go
7 from 2014 through 2018.

8 BY MS. M. MILLER: (CONTINUING)

9 Q. For this particular account?

10 A. Yes.

11 Q. Okay. Where was Caledonian Agency incorporated?

12 A. Caledonian Agency -- I'm unsure, but its parent
13 company, Caledonian Insurance Company, was incorporated in the
14 CNMI.

15 Q. The CNMI?

16 A. Yes.

17 Q. Does that make it a U.S. corporation?

18 A. Yes.

19 Q. Is Hansen Helicopters a U.S. corporation?

20 A. Yes.

21 Q. And you said Wilma's was a U.S. corporation?

22 A. I said Wilma's was a U.S. corporation, yes.

23 Q. I'd like to show you a demonstrative aid, which is
24 just an excerpt from paragraph 126 from the Second Superseding
25 Indictment. It's Demonstrative Aid 40-1.

1 MR. MARTIN: Could we have the question repeated, 10:17AM
2 Your Honor? I couldn't hear the -- 10:18AM
3 THE COURT: Okay, I'm sorry. Could you repeat 10:18AM
4 the question? Bring the mic a little closer. 10:18AM
5 MS. M. MILLER: Yes, Your Honor, I just wanted to 10:18AM
6 show the witness a demonstrative aid, which is an excerpt from 10:18AM
7 paragraph 126 from the Second Superseding Indictment. 10:18AM
8 THE COURT: Okay. And it's marked as 40-1? 10:18AM
9 MS. M. MILLER: Yes, Your Honor, it's marked as 10:18AM
10 Government's Demonstrative Aid 40-1. 10:18AM
11 THE COURT: All right. 10:18AM
12 MS. M. MILLER: And, Your Honor, may I publish 10:18AM
13 this to the jury as a demonstrative aid? 10:18AM
14 THE COURT: All right. Counsels? Okay, this is 10:18AM
15 99... oh, I see, okay, this is just a -- just really a 10:18AM
16 repeat -- 10:18AM
17 MS. M. MILLER: It's just demonstrative aid, yes. 10:18AM
18 THE COURT: Yeah, it's -- it's exactly what's 10:18AM
19 contained within the indictment? 10:18AM
20 MS. M. MILLER: Yes, Your Honor. 10:18AM
21 THE COURT: All right. No objections, Counsels, 10:18AM
22 I assume, Mr. Martin -- 10:18AM
23 MR. MARTIN: No, Your Honor. 10:18AM
24 THE COURT: -- no objection? 10:18AM
25 Ms. McConwell? 10:18AM

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1 MS. MCCONWELL: No, Your Honor.

10:18AM

2 THE COURT: All right. Very well. That'll be
3 allowed as a demonstrative aid, 40-1. You may proceed.

10:18AM

4 BY MS. M. MILLER: (CONTINUING)

10:19AM

10:19AM

5 Q. Special Agent Khamvongsa, do you see this document in
6 front of you?

10:19AM

10:19AM

7 A. Yes.

10:19AM

8 Q. Okay. Could you tell the members of the jury, how
9 did you identify these helicopters that are in the Second
10 Superseding Indictment?

10:19AM

10:19AM

10:19AM

11 A. All these helicopters were identified from Hansen
12 Helicopters' own records, which I obtained either through a
13 search warrant or through the grand jury subpoena.

10:19AM

10:19AM

10:19AM

14 Q. Okay. And now let's look at what you received
15 pursuant to a grand jury subpoena. It has been marked but not
16 introduced into evidence yet as Exhibit 725, and you're going
17 to see it come up on the screen in front of you. Do you see
18 Exhibit 725, sir?

10:19AM

10:19AM

10:19AM

10:20AM

10:20AM

19 A. Yes.

10:20AM

20 Q. What is it?

10:20AM

21 A. This is one of the documents I received from Hansen
22 Helicopters through the grand jury subpoena, and it's an
23 aircraft vessel assignment as it relates to the fleet of
24 helicopters and their assignment to the tuna boats.

10:20AM

10:20AM

10:20AM

10:20AM

25 Q. Is it a true and correct copy of what you received

10:20AM

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1 from Hansen Helicopters?

2 A. Yes.

3 MS. M. MILLER: Your Honor, at this time the
4 Government would move into evidence what has been previously
5 been marked as Government's Exhibit 725.

6 THE COURT: Any objections, Counsels?

7 MS. MCCONWELL: How many pages is your document,
8 Ms. Miller?

9 MR. LEON GUERRERO: Twenty-six pages.

10 MS. MCCONWELL: Twenty-six, okay.

11 THE COURT: So that's 725-1 through 26?

12 MS. M. MILLER: Yes, Your Honor.

13 THE COURT: Okay.

14 MR. MARTIN: No objection, Your Honor.

15 THE COURT: Ms. McConwell?

16 MS. MCCONWELL: I just would renew that this is
17 admitted only to -- for this purpose of these counts to Jon
18 Walker and not to Hansen Helicopters.

19 THE COURT: All right, very well. I think that's
20 understood, at least at this point.

21 So, ladies and gentlemen of the jury,
22 Exhibit 725-1 through 725-26 are admitted. At this point
23 they're admitted against Mr. Walker and not necessarily to
24 Hansen Helicopters. And the Court has given you that
25 instruction on how to evaluate each defendant separately. Of

1 course the Court will give further instructions later before
2 you deliberate. You may proceed.

3 (Exhibit 725-1 to 725-26 admitted.)

4 MS. M. MILLER: May I publish it, Your Honor?

5 THE COURT: You may.

6 MS. M. MILLER: And, Mr. Leon Guerrero, could you
7 just highlight the top portion so we could show the jury one
8 section of what we're looking at here? Thank you, sir.

9 BY MS. M. MILLER: (CONTINUING)

10 Q. Special Agent Khamvongsa, what are we looking at
11 here?

12 A. In the first column, it identifies the aircraft
13 belonging to Hansen Helicopters, Inc., and then on the right
14 column is the vessel or tuna boat company as it relates to the
15 assignment.

16 Q. Okay.

17 MS. MCCONWELL: Your Honor, I object to any --
18 any speculation with regard this witness testimony on the
19 document. The document speaks for itself and he's trying to
20 -- he's interpreting the document. If he -- it's complete
21 speculation. It's spec- -- his testimony is speculative -- or
22 response is speculative.

23 MR. MARTIN: I join, Your Honor.

24 THE COURT: Okay.

25 MS. M. MILLER: May I respond, Your Honor?

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1 THE COURT: You may. 10:22AM

2 MS. M. MILLER: This is in response to a grand 10:22AM
3 jury subpoena where the request was to provide the list of all 10:22AM
4 the helicopters and the vessels. 10:22AM

5 THE COURT: All right. 10:22AM

6 MS. M. MILLER: And so they provided the list of 10:22AM
7 all the helicopters and the vessels. That's not speculative; 10:22AM
8 they provided -- 10:22AM

9 MR. MARTIN: Based off of a subpoena. 10:22AM

10 MS. M. MILLER: -- this information. Okay, 10:22AM
11 I'm -- 10:22AM

12 MR. MARTIN: That's not what -- may I object, 10:22AM
13 Your Honor? That's not what the subpoena asked for. It asked 10:22AM
14 for every record from this date to this date, and this -- they 10:22AM
15 have hundreds of thousands of documents, and that's a 10:23AM
16 misrepresentation by the prosecution and I object. 10:23AM

17 MS. M. MILLER: Your Honor, I object -- 10:23AM

18 THE COURT: Okay, wait, let -- 10:23AM

19 MS. M. MILLER: -- and move to strike. 10:23AM

20 THE COURT: -- him -- hold on. 10:23AM

21 MS. M. MILLER: If he doesn't want me to talk 10:23AM
22 about misrepresentations by him, then I certainly -- 10:23AM

23 THE COURT: Counsel, I -- no -- 10:23AM

24 MS. M. MILLER: -- don't expect him -- 10:23AM

25 THE COURT: -- Ms. Miller, let him -- 10:23AM

1 MS. M. MILLER: -- to make this statement. 10:23AM

2 THE COURT: -- let him -- no, no, let him finish 10:23AM
3 his objection -- finish his statement. 10:23AM

4 MR. MARTIN: He's testifying to what it is. 10:23AM
5 That's -- 10:23AM

6 THE COURT: All right. So let me -- let me just 10:23AM
7 say this, what you guys happened -- what happened with the 10:23AM
8 request for grand jury, what happened in filings, keep that to 10:23AM
9 yourself. Really, the jurors don't need to know that unless I 10:23AM
10 say they need to know that, because that's really more of a 10:23AM
11 legal matter that's taken care of outside the presence of the 10:23AM
12 jury. So the Court will sustain that request. 10:23AM

13 Now, on this -- but let me, let me just -- on the 10:23AM
14 particular question and answer, let me just hear the question 10:23AM
15 and answer again. I want to hear Ms. -- hear that. 10:23AM

16 Veronica, could you get the last question and 10:23AM
17 last answer by our witness here. 10:23AM

18 (Whereupon the reporter read back requested 10:23AM
19 portion.) 10:24AM

20 THE COURT: All right. The Court -- the Court 10:24AM
21 will overrule the objection. The witness's answer, it -- as 10:24AM
22 it indicates here on this the particular exhibit, this is the 10:24AM
23 aircraft, this is the vessel. So the Court will overrule the 10:24AM
24 objection. 10:24AM

25 MS. MCCONWELL: Well -- 10:24AM

1 BY MS. M. MILLER: (CONTINUING)

2 Q. And could you tell --

3 THE COURT: Wait, hold on, hold on, hold on,
4 what -- yes?

5 MS. MCCONWELL: He's asking about ownership of a
6 vessel -- or of an aircraft. All this document says it has
7 type. It doesn't identify ownership of aircraft --

8 THE COURT: Okay, so your objection is --

9 MS. MCCONWELL: -- and that's my objection.

10 THE COURT: -- to the ownership, who owns it --

11 MS. MCCONWELL: His response --

12 THE COURT: -- the question.

13 MS. MCCONWELL: Yeah, his response saying it's
14 that Hansen Helicopters owns those aircraft, because all this
15 document -- it has Hansen Helicopters on it, the document
16 speaks for itself, but it doesn't have the ownership of the
17 particular aircraft.

18 THE COURT: All right. All right. Ms. McCon- --
19 Ms. Miller.

20 MS. M. MILLER: Yes, Your Honor. First of all --

21 THE COURT: Yeah.

22 MS. M. MILLER: -- I didn't ask the question who
23 owns. Second of all --

24 THE COURT: He -- so he -- so his answer is not
25 responsive to the question; that's really --

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1 MS. M. MILLER: He didn't -- 10:25AM

2 THE COURT: -- the objection. 10:25AM

3 MS. M. MILLER: -- he didn't -- he didn't testify 10:25AM

4 to that either. The question was -- 10:25AM

5 THE COURT: No, no, don't tell -- 10:25AM

6 MS. M. MILLER: -- what is the jury -- 10:25AM

7 THE COURT: Okay, wait. 10:25AM

8 MS. M. MILLER: What is the -- what is the -- 10:25AM

9 THE COURT: No, no, I don't want -- 10:25AM

10 MS. M. MILLER: Okay. 10:25AM

11 THE COURT: -- I don't want you guys to tell me 10:25AM

12 what the question was. 10:25AM

13 MS. M. MILLER: Well --

14 THE COURT: Let me hear it again. Hold on --

15 MS. M. MILLER: Yes.

16 THE COURT: Hold on. Veronica, repeat it again.

17 I want to make sure now that I know what the specific

18 objection is. Go ahead. 10:25AM

19 (Whereupon the reporter read back requested 10:25AM

20 portion.) 10:25AM

21 THE COURT: All right. The objection will be 10:25AM

22 sustained as to that last part as to not responsive to the 10:25AM

23 question, "What are we looking at here?" He's laying -- this 10:25AM

24 is an aircraft -- aircraft number; that's what it should say. 10:25AM

25 Okay. So the Court will sustain that objection. 10:26AM

1 As to the ownership, that -- that wasn't the
2 question, so I'm -- the Court is going to sustain the
3 objection as not responsive to the question.

4 Okay, next question. So disregard that part of
5 the answer. All right, next question.

6 MS. M. MILLER: Yes.

7 BY MS. M. MILLER: (CONTINUING)

8 Q. Sir, who did you get this information from?

9 A. Hansen Helicopters.

10 Q. What is at the very top of this document that you
11 received?

12 A. Hansen Helicopters, Inc.

13 Q. And what does it say under that?

14 A. Aircraft vessel.

15 Q. And what is in the first column on the left of all
16 26 pages of this document?

17 A. It's the U.S.-registered aircraft as well as the
18 New Zealand and Philippine --

19 Q. Okay. And on the right of this document, what is
20 being identified?

21 A. The tuna boats.

22 Q. Now, let's talk about ownership of these helicopters.
23 Can you tell the members of the jury, in reviewing the
24 evidence in this case, did you see any evidence that indicated
25 who was purchasing the helicopters used in this scheme?

1 MR. MARTIN: Your Honor, I object to the form of
2 the question.

3 THE COURT: Yeah, the Court will sustain the
4 objection. Why don't you rephrase that. That seems too --
5 too broad "in this scheme." Which scheme? Which --

6 MS. M. MILLER: Okay.

7 MR. MARTIN: I object --

8 THE COURT: -- which there's a lot of schemes
9 here possibly.

10 MR. MARTIN: Your Honor, I --

11 THE COURT: So the Court will sustain the
12 objection.

13 MR. MARTIN: I object to the word "scheme."

14 THE COURT: All right. The objection will be
15 sustained. Rephrase, Ms. Miller.

16 MS. M. MILLER: Okay.

17 BY MS. M. MILLER: (CONTINUING)

18 Q. Could you tell the members of the jury, what evidence
19 did you review in this case that supported an identification
20 of the owner of the helicopters?

21 A. I reviewed Hansen Helicopters' own records. A good
22 example is the Eastern Shore Invoice, which reflected that it
23 was purchased by Hansen Helicopters, Vanuatu --

24 MS. MCCONWELL: Your Honor, I object. That's
25 also nonresponsive. She didn't ask about purchasing. She

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1 asked about ownership.

10:27AM

2 MS. M. MILLER: I asked him what evidence was
3 there about who owned it. If they -- if Hansen purchased
4 it --

10:27AM

10:27AM

10:27AM

5 THE COURT: Well, no, no, no --

10:27AM

6 MS. M. MILLER: -- they owned it.

10:27AM

7 THE COURT: -- no, no, that's not necessarily so.

10:27AM

8 The Court will sustain the objection. It was -- so the Court

10:27AM

9 sustained the objection. Disregard. The question was only as

10:27AM

10 to ownership. So go ahead.

10:28AM

11 BY MS. M. MILLER: (CONTINUING)

10:28AM

12 Q. Okay, so how do you know who owned these helicopters,
13 sir?

10:28AM

10:28AM

14 MS. MCCONWELL: And, Your Honor, I want -- want a
15 timeframe.

10:28AM

10:28AM

16 BY MS. M. MILLER: (CONTINUING)

10:28AM

17 Q. How do you know who owned these helicopters, sir?

10:28AM

18 THE COURT: Timeframe, which -- which

10:28AM

19 helicopters? Are these the ones that are --

10:28AM

20 MS. M. MILLER: The helicopters that are
21 disclosed in Exhibit 725 that was just admitted into evidence,
22 and the helicopters that are identified in the Second
23 Superseding Indictment, which the jury saw as Demonstrative
24 Aid 40-1 --

10:28AM

10:28AM

10:28AM

10:28AM

10:28AM

25 THE COURT: So you're asking for --

10:28AM

1 MS. M. MILLER: -- so subject helicopters of this 10:28AM
2 case. 10:28AM

3 THE COURT: For those two timeframes? 10:28AM

4 MS. M. MILLER: Yes, Your Honor. 10:28AM

5 THE COURT: Okay, so the -- okay, so she's 10:28AM
6 giving -- she's giving it to him. All right. Those 10:28AM
7 timeframes. Go ahead, can you answer? 10:28AM

8 THE WITNESS: The question again? 10:28AM

9 BY MS. M. MILLER: (CONTINUING) 10:28AM

10 Q. How do you know who owned the helicopters that we see 10:28AM
11 listed here in this exhibit? 10:28AM

12 A. I know, based upon the corporate records from Hansen 10:28AM
13 Helicopters as well as the tax return information and who 10:28AM
14 benefitted from the monies that these helicopters generated. 10:28AM

15 Q. And you've talked about the purchase -- 10:29AM

16 MS. MCCONWELL: Your Honor, I object to that 10:29AM
17 being nonresponsive. 10:29AM

18 THE COURT: Yeah. Sustained. 10:29AM

19 MS. M. MILLER: Your Honor, that is responsive. 10:29AM
20 How do you know who owned? So they're objecting to as to 10:29AM
21 speculation -- 10:29AM

22 THE COURT: The Court will -- the Court will 10:29AM
23 sustain the objection. 10:29AM

24 BY MS. M. MILLER: (CONTINUING) 10:29AM

25 Q. Sir, when you talk about the ownership issue, can you 10:29AM

1 tell the members of the jury what did you see, in terms of 10:29AM
2 actual physical evidence that Hansen Helicopters owned these 10:29AM
3 helicopters? 10:29AM

4 A. The physical evidence was actually in Hansen 10:29AM
5 Helicopters' own facilities. 10:29AM

6 MS. MCCONWELL: Your Honor, I would -- 10:29AM

7 THE COURT: And so what was that? What is the 10:29AM
8 evidence? That's what she -- how do you know? What is it? 10:29AM
9 What is it that show you had that? 10:29AM

10 BY MS. M. MILLER: (CONTINUING) 10:29AM

11 Q. Can you identify the -- 10:29AM

12 A. There's -- there's a variety -- 10:29AM

13 Q. So I know there's a variety -- 10:29AM

14 A. Your Honor, there's a variety of evidence and there's 10:29AM
15 no one particular source. 10:29AM

16 Q. List the variety of evidence, that's the question. 10:29AM

17 A. Okay. 10:29AM

18 MS. MCCONWELL: And, Your Honor, I'd ask about 10:29AM
19 timeframe. I'd object -- 10:29AM

20 THE COURT: Is it the same time frame? 10:30AM

21 MS. MCCONWELL: -- it's speculative. 10:30AM

22 MS. M. MILLER: Same time frame, Your Honor. 10:30AM

23 THE COURT: Okay. Same time frame as in the 10:30AM
24 indictment -- 10:30AM

25 MS. M. MILLER: Same time frame. 10:30AM

1 THE COURT: -- as on this exhibit? 10:30AM

2 MS. M. MILLER: Yes, Your Honor. 10:30AM

3 THE COURT: Do you -- yes? 10:30AM

4 MS. MCCONWELL: Well, I'm going to object 10:30AM

5 because -- 10:30AM

6 THE COURT: Yeah. 10:30AM

7 MS. MCCONWELL: -- I'm -- I'm confused. 10:30AM

8 Ownership changes. I -- there is -- and a time period's 10:30AM

9 relevant as to who -- what the -- who the owner was. So if 10:30AM

10 there's a specific -- 10:30AM

11 THE COURT: Do you want to voir die the witness 10:30AM

12 in aid of your objection? 10:30AM

13 MS. M. MILLER: There's also -- 10:30AM

14 THE COURT: Wait, just a minute, just a minute -- 10:30AM

15 MS. M. MILLER: -- cross-examination. 10:30AM

16 THE COURT: -- hold on a second. Do you want to 10:30AM

17 voir dire the witness in aid of your objection, because 10:30AM

18 honestly, I'm -- I -- I'm not sure if I'm understanding your 10:30AM

19 theory. And you know -- you guys know the evidence a lot more 10:30AM

20 than -- better than I do because you've got everything more 10:30AM

21 than I -- I mean, a lot more stuff than I've read because I 10:30AM

22 don't have everything. Do you want to voir dire the witness? 10:30AM

23 MS. MCCONWELL: Um -- um, yes. 10:30AM

24 THE COURT: Okay, go ahead. 10:30AM

25 VOIR DIRE EXAMINATION 10:30AM

1
2 BY MS. MCCONWELL:

3 Q. So what's the time period that you're -- that --
4 what -- what time period did you look at ownership of --

5 Well, are you representing to this Court and jury
6 that you looked at the ownership for each and every one of the
7 aircraft that's on Exhibit 275?

8 A. I looked at evidence --

9 Q. That's a yes or no.

10 A. -- as well there's admissions made by --

11 Q. That's a yes or no.

12 A. -- by Mr. Crowe.

13 Q. Did you look at each and every one of the aircraft
14 that's listed on Exhibit 275?

15 A. Yes.

16 Q. Did you look at the aircraft files for each aircraft
17 that's listed on 725?

18 A. I looked at summary charts, and I relied upon the
19 information provided by the FAA.

20 Q. So that's a no, you did not look at the aircraft
21 charts.

22 And did you --

23 MS. M. MILLER: Objection, Your Honor,
24 Counsel's --

25 THE COURT: No, no, no, I'm sorry --

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1 MS. M. MILLER: -- testifying. The witness says 10:31AM
2 yes -- 10:31AM
3 THE COURT: Wait, wait. 10:31AM
4 MS. M. MILLER: -- and she says that's a no. 10:31AM
5 THE COURT: Okay. Is that right -- 10:31AM
6 MS. MCCONWELL: He said he looked -- 10:31AM
7 THE COURT: Is that right -- 10:31AM
8 MS. MCCONWELL: -- at summary charts -- 10:31AM
9 THE COURT: Hold on. Is that right, what she 10:31AM
10 just asked? Go back -- go back to your last question. 10:31AM
11 BY MS. MCCONWELL: (CONTINUING) 10:31AM
12 Q. Did you look at each and every aircraft file on the 10:31AM
13 aircraft that are listed on 725 or on the demonstrative aid 10:31AM
14 40-1? 10:31AM
15 A. Yes. 10:31AM
16 Q. You looked at every single aircraft chart -- I mean, 10:31AM
17 aircraft file? 10:32AM
18 A. As it -- yes, as it relates to this, yes. 10:32AM
19 Q. And did you look at each -- even each year -- 10:32AM
20 You're saying you looked at it between which year, 10:32AM
21 2000 to 2018, or did you look at it from 2014 to 2018? 10:32AM
22 A. I looked into this in the entirety of the wire fraud 10:32AM
23 conspiracy. 10:32AM
24 Q. That didn't answer my question. 10:32AM
25 THE COURT: Which is? 10:32AM

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1 THE WITNESS: Yes, it's 2000 to present. 10:32AM

2 BY MS. MCCONWELL: (CONTINUING) 10:32AM

3 Q. All right. And so that you would know what -- what 10:32AM
4 changes of ownership had occurred and with any of these 10:32AM
5 aircraft? 10:32AM

6 MS. M. MILLER: Objection, Your Honor, assuming 10:32AM
7 facts not in evidence. 10:32AM

8 THE COURT: Overruled. Go ahead. Do you 10:32AM
9 understand the last question? 10:32AM

10 THE WITNESS: Could you rephrase -- could you 10:32AM
11 rephrase it, please? 10:32AM

12 BY MS. MCCONWELL: (CONTINUING) 10:32AM

13 Q. So you would be able to testify to any change of 10:32AM
14 ownership in any of these aircraft? 10:32AM

15 MS. M. MILLER: Objection, Your Honor. 10:32AM

16 THE COURT: If -- if there was any. 10:32AM

17 MS. M. MILLER: If there was any, right. 10:32AM

18 THE WITNESS: Absolutely. 10:32AM

19 THE COURT: All right. Overruled. 10:32AM

20 BY MS. MCCONWELL: (CONTINUING) 10:32AM

21 Q. And would -- and were there? 10:32AM

22 A. These were all alter egos of Jon Walker -- 10:33AM

23 Q. That wasn't my -- 10:33AM

24 A. -- so there was no change -- 10:33AM

25 Q. -- question. 10:33AM

1 A. -- as to the ownership.

2 THE COURT: Wait, wait. Just -- just -- the
3 answer -- what's the answer to that question, was there any?
4 Was that your question, was there any changes? Is that your
5 question --

6 MR. MARTIN: Your Honor, I have an objection that
7 -- that the witness needs to be instructed to answer the
8 question and not do evidentiary harpoons like he just did.
9 He's making these statements up about alter egos that there's
10 no evidence --

11 MS. M. MILLER: Your Honor, he's --

12 THE COURT: Wait, wait, wait, hold -- wait,
13 Counsels. No, no, I disagree with that. I think he's trying
14 to answer. You got -- we've got three lawyers breathing down
15 his back right now, so let's -- let's calm down, and we got a
16 judge right next to him. So let's -- let's -- let's -- so, go
17 ahead, proceed. What's your question?

18 BY MS. MCCONWELL: (CONTINUING)

19 Q. Did you look at the registration for each of these
20 aircraft?

21 A. Through the course of my investigation, yes.

22 Q. The registration files?

23 A. Yes.

24 Q. All right. Okay. So you looked at the individual
25 registration for each of these aircraft?

1 A. Again, that's yes.

10:34AM

2 MS. M. MILLER: Your Honor, he's answered that
3 question twice now. May we move on?

10:34AM

10:34AM

4 THE COURT: Okay? Yes?

10:34AM

5 MS. MCCONWELL: All right.

10:34AM

6 THE COURT: Asked and answered. Okay. Go ahead,
7 next question.

10:34AM

10:34AM

8 Need some water?

10:34AM

9 BY MS. M. MILLER: (CONTINUING)

10:34AM

10 Q. So of the evidence --

10:34AM

11 THE WITNESS: Yes, please.

10:34AM

12 THE COURT: Let him get water.

10:34AM

13 BY MS. M. MILLER: (CONTINUING)

10:34AM

14 Q. Of the --

10:34AM

15 THE COURT: Let him get a water.

10:34AM

16 MS. M. MILLER: Yeah, absolutely. He needs it,
17 I'm sure. (Laughing.)

10:34AM

10:34AM

18 THE COURT: All right. Next.

10:34AM

19 MS. M. MILLER: Yes, Your Honor.

10:34AM

20 BY MS. M. MILLER: (CONTINUING)

10:34AM

21 Q. Of the evidence that you reviewed from 2000 to
22 present regarding the ownership of the helicopters at issue,
23 can you please tell the jury what evidence did you see that
24 indicates that Hansen Helicopters owned the helicopters at
25 issue?

10:34AM

10:34AM

10:34AM

10:34AM

10:34AM

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1 MS. MCCONWELL: Is this limited to 40-1, 10:34AM
2 Demonstrative Aid 40-1? 10:34AM

3 MS. M. MILLER: Yes. 10:34AM

4 THE WITNESS: There is a document in which 10:34AM
5 Mr. Crowe responds to a potential buyer about the helicopters, 10:35AM
6 and in that document Mr. Crowe says that everything is owned 10:35AM
7 by Jon Walker. 10:35AM

8 BY MS. M. MILLER: (CONTINUING) 10:35AM

9 Q. Okay. In addition to that document, did you see 10:35AM
10 invoices to Hansen Helicopters for the purchase of 10:35AM
11 helicopters? 10:35AM

12 MS. MCCONWELL: And, Your Honor, I'm going to 10:35AM
13 object to leading. 10:35AM

14 THE COURT: Overruled. Go ahead. 10:35AM

15 THE WITNESS: Yes. 10:35AM

16 BY MS. M. MILLER: (CONTINUING) 10:35AM

17 Q. Did you see invoices to any other company besides 10:35AM
18 Hansen Helicopters? 10:35AM

19 A. No. 10:35AM

20 Q. What else did you see that referenced the purchase of 10:35AM
21 helicopters in this case during this time period? 10:35AM

22 A. There was a \$4.8 million check that was for -- in the 10:35AM
23 memo line for purchase of helicopters. 10:35AM

24 Q. And who was that check made payable to? 10:35AM

25 A. Jon Walker, Defendant Jon Walker. 10:35AM

1 MS. MCCONWELL: And the time period is when? 10:35AM
2 2000 to when? 10:35AM
3 MS. M. MILLER: Current -- 10:36AM
4 THE WITNESS: To present. 10:36AM
5 MS. MCCONWELL: To present. 10:36AM
6 MS. M. MILLER: -- for the fourth time. 10:36AM
7 THE COURT: All right, Counsel, you don't need to 10:36AM
8 -- 10:36AM
9 MS. M. MILLER: Well, I mean, Your Honor, I -- I 10:36AM
10 was hopeful we'd get done this week -- 10:36AM
11 THE COURT: No -- 10:36AM
12 MS. M. MILLER: -- but maybe -- 10:36AM
13 THE COURT: -- no, we'll get done -- we're going 10:36AM
14 to get done even if we have to go till late in the evening, 10:36AM
15 which I'm sure you don't want to do that because you don't 10:36AM
16 want the jurors to be -- staying late -- 10:36AM
17 MS. M. MILLER: I -- I think we go late, we start 10:36AM
18 early, we do whatever we need to do and -- 10:36AM
19 THE COURT: Okay, Counsel -- 10:36AM
20 MS. M. MILLER: -- and we'll get it done. 10:36AM
21 THE COURT: -- we don't need -- I don't need 10:36AM
22 everybody to comment on the evidence or comment on Counsel's 10:36AM
23 questioning. Just keep it professional. 10:36AM
24 MS. M. MILLER: All right. Your Honor, at 10:36AM
25 this -- 10:36AM

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1 THE COURT: Yes, Mr. Martin? 10:36AM

2 MR. MARTIN: Your Honor, sidebar comments as 10:36AM
3 we've had delay things. And if we could stop that, we could 10:36AM
4 get through it quicker. 10:36AM

5 THE COURT: I agree with all -- I -- 10:36AM

6 MS. M. MILLER: If we could stop the repeated 10:36AM
7 objections that you already ruled on -- 10:36AM

8 THE COURT: Okay. 10:36AM

9 MS. M. MILLER: -- Your Honor, we could get 10:36AM
10 moving. 10:36AM

11 THE COURT: The Court -- 10:36AM

12 MR. MARTIN: Sidebar comments -- 10:36AM

13 THE COURT: Excuse me. 10:36AM

14 MR. MARTIN: This is a sidebar comment. 10:36AM

15 MS. M. MILLER: This is not a sidebar comment. 10:36AM
16 What -- 10:36AM

17 THE COURT: These are -- these are -- 10:36AM

18 MS. M. MILLER: -- time frame -- 10:36AM

19 THE COURT: -- sidebar. It's -- 10:36AM

20 MS. M. MILLER: -- for the fourth time. 10:36AM

21 THE COURT: Counsel, this is open bar, and the 10:36AM
22 four -- the fourth-time comment is not necessary. The Court 10:36AM
23 will take care of that later. Let's move on, next question. 10:36AM

24 BY MS. M. MILLER: (CONTINUING) 10:36AM

25 Q. So, sir -- 10:37AM

1 THE COURT: Come on, because, you know, we don't 10:37AM
2 have all day, let go. It's 10:25 -- 10:37AM
3 MS. M. MILLER: I know. 10:37AM
4 THE COURT: -- I think you've asked -- 10:37AM
5 MS. M. MILLER: I know. 10:37AM
6 THE COURT: -- seven questions, let's go. 10:37AM
7 MS. M. MILLER: I know. 10:37AM
8 THE COURT: Go ahead. 10:37AM
9 MS. M. MILLER: Well, Your Honor, and for the 10:37AM
10 record -- 10:37AM
11 THE COURT: I mean, everybody's asked seven 10:37AM
12 questions. 10:37AM
13 MS. M. MILLER: Thank you, Your Honor. 10:37AM
14 THE COURT: I'm just overexaggerating, but let's 10:37AM
15 go ahead. 10:37AM
16 MS. M. MILLER: Yes. 10:37AM
17 BY MS. M. MILLER: (CONTINUING) 10:37AM
18 Q. Okay. Can you also, please, also tell the members of 10:37AM
19 the jury whether you correlated the helicopters that are 10:37AM
20 listed here with the tuna boat companies and the leases? 10:37AM
21 A. Yes, I did exactly that. In addition -- 10:37AM
22 THE COURT: Okay. Hold on. There is an 10:37AM
23 objection? 10:37AM
24 MS. MCCONWELL: "Here," is "here" referring to 10:37AM
25 what? 10:37AM

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1 THE COURT: Yes, I agree with that. 10:37AM

2 MS. M. MILLER: It's the Exhibit 725, which is in 10:37AM
3 front of you that I'm pointing to when I say "here." 10:37AM

4 THE COURT: All right. 10:37AM

5 Answer? 10:37AM

6 THE WITNESS: So I did use this document, as it 10:37AM
7 relates to the aircraft and vessel, and I correlated that -- 10:37AM
8 or compared it to what was we -- what we discussed earlier as 10:37AM
9 it relates to the schedule of billings and collections, and I 10:37AM
10 used that to identify what helicopters were assigned to those 10:38AM
11 boats and then whether or not those payments were made. 10:38AM

12 BY MS. M. MILLER: (CONTINUING) 10:38AM

13 Q. Okay. I'd like you to look at a demonstrative aid 10:38AM
14 marked as Government's Demonstrative 40-2, which is an excerpt 10:38AM
15 of paragraph 127 of the Second Superseding Indictment. 10:38AM

16 MS. M. MILLER: Mr. Leon Guerrero, can you pull 10:38AM
17 that up? 10:38AM

18 MR. MARTIN: Since we weren't provided that, 10:38AM
19 could you give me the paragraph number again, please? 10:38AM

20 MS. M. MILLER: 127. And it is an excerpt from 10:38AM
21 the Second Superseding Indictment, Your Honor. 10:38AM

22 THE COURT: Okay. 10:38AM

23 MS. M. MILLER: And may I publish that to the 10:38AM
24 jury, Your Honor? 10:38AM

25 THE COURT: You may. 10:38AM

1 Counsel, any -- did you want a -- did you have a 10:38AM
2 chance to review that, Mr. Martin? 10:38AM

3 MR. MARTIN: I have now -- 10:38AM

4 THE COURT: Okay. 10:38AM

5 MR. MARTIN: -- that it's been identified, yes, 10:38AM
6 Your Honor. I have, Judge. 10:38AM

7 THE COURT: Okay. All right. No objections. 10:38AM

8 Ms. McConwell, you want to just look at that? Is 10:38AM
9 that okay with you? 10:39AM

10 MS. MCCONWELL: Well, yes, Your Honor, other than 10:39AM
11 Hansen Helicopters is not in that -- this paragraph. 10:39AM

12 THE COURT: So noted. Okay, you may -- you may 10:39AM
13 publish. 10:39AM

14 MS. M. MILLER: Thank you, Your Honor. 10:39AM
15 (Government's Demonstrative 40-2 admitted) 10:38AM

16 BY MS. M. MILLER: (CONTINUING) 10:38AM

17 Q. Special Agent Khamvongsa, can you tell the members of 10:39AM
18 the jury how did you develop this list of tuna boat companies 10:39AM
19 for the Second Superseding Indictment? 10:39AM

20 A. I used the document which we looked at just recently, 10:39AM
21 the aircraft vessel assignment, as well as the schedule of 10:39AM
22 billings and collections, which we just talked about earlier, 10:39AM
23 as well as there is a pilot mechanic listing which actually 10:39AM
24 identifies the vessel and the tuna boats and which they're 10:39AM
25 assigned to. So I looked at three different documents to 10:39AM

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1 verify and corroborate that the information was correct. 10:39AM

2 Q. And when you say you looked at the pilot-mechanic 10:39AM
3 list of which pilots and which mechanics were actually working 10:39AM
4 on these boats, where did you get that information from? 10:39AM

5 A. That information came both from the search warrants, 10:39AM
6 as well as provided by Hansen Helicopters. 10:39AM

7 Q. Can we look at Exhibit 183, which has been entered 10:39AM
8 into evidence, please, and this has been entered into evidence 10:40AM
9 so we could it show to the jury. 10:40AM

10 MS. M. MILLER: Mr. Leon Guerrero, can you, 10:40AM
11 please, just highlight the first section across the top of 10:40AM
12 this exhibit? Thank you, sir. Is there a way to blow that up 10:40AM
13 at all or is that as big as we get it? Are we going to make 10:40AM
14 it bigger? Okay, yeah, that's much better. 10:40AM

15 BY MS. M. MILLER: (CONTINUING) 10:40AM

16 Q. So, Special Agent Khamvongsa, is this one of the 10:40AM
17 pieces of evidence that you've just described you relied on? 10:40AM

18 A. This pilot-mechanic list is one of many in which I 10:40AM
19 reviewed and relied upon. 10:40AM

20 Q. And could you, please, tell the members of the jury, 10:41AM
21 what does it say on the upper left-hand corner of this 10:41AM
22 document? 10:41AM

23 A. "Hansen Helicopters, Inc." 10:41AM

24 Q. And then under that? 10:41AM

25 A. "Pilot-mechanic aircraft vessel fax, phone, e-mail 10:41AM

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1 list."

2 Q. Okay. And then what do we see going across the first
3 row, just to show the jury how you coordinated this
4 information?

5 A. What we see is the fishing company and then we see a
6 listing of the U.S.-registered numbers -- or U.S.-registered
7 helicopters underneath the fishing company. Then we see the
8 vessels and then we see the boats -- or the vessel names.
9 Then we see the pilot and then the names of the pilots. Then
10 we see the start contract date and the end contract date for
11 the pilot, days remaining. Then we see the mechanic, the
12 names of the mechanics underneath, start contract date, the
13 end contract date and the days remaining. Then we see the fax
14 number and then the e-mail address as it relates to the
15 fishing vessel or the tuna boat.

16 Q. Okay. And, sir, you also referenced the leases. Can
17 we look at what has been marked but not yet admitted into
18 evidence as Exhibit 2900-2904. Do you see that document, sir?

19 A. Yes.

20 Q. Do you recognize it?

21 A. Yes.

22 Q. Is it a true and correct copy of the lease that was
23 seized from the Defendant Hansen Helicopters' computers?

24 A. Yes.

25 MS. M. MILLER: Your Honor, at this time the

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1 Government would offer into evidence what has been previously
2 marked as Exhibit 2900-2904 through 2909.

3 MR. MARTIN: May I voir dire the witness, Your
4 Honor?

5 THE COURT: You may.

6 MR. MARTIN: I'm sorry, Your Honor, I'm trying to
7 pull that up on my computer.

8
9 VOIR DIRE EXAMINATION

10 BY MR. MARTIN:

11 Q. Agent Khamvongsa --

12 THE COURT: Could you make that -- I'm sorry,
13 Mr. Leon Guerrero, can you make that a little bigger? Just
14 the... that helps me.

15 Okay, go ahead. Yes, go ahead, Mr. Martin.

16 BY MR. MARTIN: (CONTINUING)

17 Q. Agent Khamvongsa --

18 MR. MARTIN: If we could go to the last page of
19 this document, Mr. Leon Guerrero, so we the agent can see it.

20 THE COURT: Is that 2909, is that what it would
21 be, Mr. Martin?

22 MR. MARTIN: Yes, Your Honor.

23 THE COURT: Okay.

24 BY MR. MARTIN: (CONTINUING)

25 Q. Is that document signed by anyone, sir?

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1 A. Yes.

10:44AM

2 Q. The one that I'm looking at, 2909?

10:44AM

3 A. We have the amended copy of this contract that's
4 signed.

10:44AM

10:44AM

5 Q. I'm asking you about the one on screen in front of
6 you, sir. If you don't understand my question, please let me
7 know.

10:44AM

10:44AM

10:44AM

8 Is that contract, 290-2909, that's on the screen that
9 the Government sought the admission of, signed by anyone, sir?

10:44AM

10:44AM

10 A. If you're talking about this particular page, there
11 is no signature on it. But, again, we do have copies of a
12 signed contract.

10:45AM

10:45AM

10:45AM

13 Q. Agent, did you not understand my question?

10:45AM

14 A. Go ahead and rephrase it. I'm -- I apologize if I'm
15 not answering it correctly.

10:45AM

10:45AM

16 Q. The document in front of you on the computer, do you
17 see that document, 2909?

10:45AM

10:45AM

18 A. Yes.

10:45AM

19 Q. Is there a signature on that screen on that document,
20 sir?

10:45AM

10:45AM

21 A. As -- if we're talking about specifically what I'm
22 seeing on the screen --

10:45AM

10:45AM

23 Q. Do you not --

10:45AM

24 A. -- there is no --

10:45AM

25 Q. My question --

10:45AM

1 A. -- there is no -- 10:45AM

2 Q. -- is very specific. 10:45AM

3 A. There is no signature. 10:45AM

4 Q. That screen, yes, sir. 10:45AM

5 A. There is no signature. 10:45AM

6 Q. Okay. Is there a signature for a boat company or for 10:45AM

7 a lessee or a lessor on that page, on that screen, sir? 10:45AM

8 A. For what I'm saying here, there is -- 10:45AM

9 Q. Yes, sir, I'm not talking -- I'm not talking about 10:45AM

10 something else. I'm talking about the screen I'm looking at 10:45AM

11 that's been provided to me by the Government that they're 10:45AM

12 trying to introduce into evidence, that screen. Is that -- is 10:46AM

13 that something not understandable? 10:46AM

14 A. No, I just want to -- 10:46AM

15 MS. M. MILLER: Objection, Your Honor -- 10:46AM

16 THE WITNESS: -- clarify, sir. 10:46AM

17 MS. M. MILLER: -- move to strike. 10:46AM

18 THE COURT: No, no, no. Objection overruled. 10:46AM

19 Go ahead. Go ahead. Do you understand -- 10:46AM

20 BY MR. MARTIN: (CONTINUING) 10:46AM

21 Q. Is there a signature on that document that is on the 10:46AM

22 screen right there by lessee or a lessor? 10:46AM

23 A. Only on the screen, no. 10:46AM

24 Q. That's all I'm asking about. I'm not asking about in 10:46AM

25 the universe. I'm asking about what's on the screen. Do you 10:46AM

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1 understand that?

10:46AM

2 MS. M. MILLER: Objection, Your Honor, asked and
3 answered three times now.

10:46AM

10:46AM

4 THE COURT: Okay, the answer is no.

10:46AM

5 MS. M. MILLER: Yes.

10:46AM

6 THE WITNESS: Yeah, no.

10:46AM

7 THE COURT: All right, okay.

10:46AM

8 MR. MARTIN: I object to the introduction of this
9 exhibit, Your Honor.

10:46AM

10:46AM

10 THE COURT: All right. Counsel?

10:46AM

11 MS. MCCONWELL: Hansen also objects.

10:46AM

12 MS. M. MILLER: And, Your Honor --

10:46AM

13 THE COURT: All right. Did you want to respond?

10:46AM

14 MS. M. MILLER: Yes, Your Honor.

10:46AM

15 BY MS. M. MILLER: (CONTINUING)

10:46AM

16 Q. This is one part, is it not, sir, of a lease which
17 includes an amendment that is signed?

10:46AM

10:46AM

18 A. Yes.

10:46AM

19 Q. Okay. Let's look at Exhibit 3035, which is also part
20 of 2900.

10:46AM

10:46AM

21 MR. MARTIN: Your Honor, I object to the
22 question --

10:46AM

10:47AM

23 MS. M. MILLER: If you pull that up to the
24 screen.

10:47AM

10:47AM

25 MR. MARTIN: -- unless this -- we have an

10:47AM

1 unsigned document and then she makes reference to the fact 10:47AM
2 that it is an amendment to an unsigned document. 10:47AM

3 THE COURT: All right, I think -- okay -- 10:47AM

4 MR. MARTIN: I object to the question. 10:47AM

5 THE COURT: -- so -- so are you asking me to hold 10:47AM
6 off on my decision until you -- 10:47AM

7 MS. M. MILLER: Yes. 10:47AM

8 THE COURT: -- ask the next question? 10:47AM

9 MS. M. MILLER: So that you could see -- 10:47AM

10 THE COURT: All right. 10:47AM

11 MS. M. MILLER: -- the rest of -- 10:47AM

12 THE COURT: So the -- 10:47AM

13 MS. M. MILLER: -- this contract. 10:47AM

14 THE COURT: All right. So you're not moving to 10:47AM
15 admit at this point? 10:47AM

16 MS. M. MILLER: At this point -- 10:47AM

17 THE COURT: You're going to withdraw your 10:47AM
18 motion -- 10:47AM

19 MS. M. MILLER: -- I'm going to withdraw the 10:47AM
20 motion and we'll go back. 10:47AM

21 THE COURT: -- to -- go ahead. Go. 10:47AM

22 BY MS. M. MILLER: (CONTINUING) 10:47AM

23 Q. Let's look at 3035 of Exhibit 2900, please. And, 10:47AM
24 sir, we got these leases from the defendants' computers, 10:47AM
25 right? 10:47AM

1 MR. MARTIN: Your Honor, I -- I object. 10:47AM

2 MS. M. MILLER: To what? 10:47AM

3 MR. MARTIN: I object. These are not leases. 10:47AM

4 These are things they seized from a computer. They are pieces 10:47AM

5 of paper. They are not leases. Her reference to that is -- 10:47AM

6 as evidenced by the exhibit she just tried to introduce is 10:47AM

7 inappropriate. 10:47AM

8 MS. M. MILLER: Your Honor, the -- 10:47AM

9 THE COURT: Okay. The objection -- I'm sorry. 10:47AM

10 The objection will be overruled. Go ahead. On here -- on 10:47AM

11 the -- on the -- on the characterization -- 10:47AM

12 MS. M. MILLER: Yes. 10:47AM

13 THE COURT: -- of leases. 10:47AM

14 MS. M. MILLER: Yes. 10:47AM

15 THE COURT: All right. Overruled. 10:47AM

16 MS. M. MILLER: Now -- 10:47AM

17 THE COURT: Go ahead. Next question -- 10:47AM

18 MS. M. MILLER: Yes. 10:47AM

19 THE COURT: -- next objection? 10:47AM

20 MS. MCCONWELL: Okay. Well, this was not -- this 10:48AM

21 page is not on any of the -- it's 3035 and it's not on any of 10:48AM

22 the ones that was on our list that she provided. So I'm going 10:48AM

23 to -- so we're going to have to take a second to look at it. 10:48AM

24 THE COURT: Okay. 10:48AM

25 (Pause.) 10:48AM

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1 MS. MCCONWELL: Is there -- I'm sorry -- 10:51AM

2 THE COURT: I'm just waiting for you. You said 10:51AM
3 you were going to check to see if you got notice of the 10:51AM
4 exhibit. 10:51AM

5 MR. MARTIN: We didn't. 10:51AM

6 MS. MCCONWELL: Well, we -- we didn't. 10:51AM

7 THE COURT: You didn't? 10:51AM

8 And, Counsel -- 10:51AM

9 MS. M. MILLER: Yes, Your Honor, so we -- 10:51AM

10 THE COURT: -- they just said they didn't. 10:51AM

11 MS. M. MILLER: -- did give notice that we were 10:51AM
12 using leases in Mr. Khamvongsa's testimony, and we were going 10:51AM
13 to use a different lease. We decided to use this lease, and 10:51AM
14 they're right I didn't specify this lease. But, as Your Honor 10:51AM
15 knows, these leases, all of them came from the defendants, 10:51AM
16 were provided to the defendants -- 10:51AM

17 THE COURT: Okay. Let -- okay -- 10:51AM

18 MR. MARTIN: Your Honor, I object to the 10:51AM
19 testifying. 10:51AM

20 THE COURT: -- but, yeah, okay, we don't -- 10:51AM
21 putting that aside, the question is did you give them notice 10:51AM
22 of this lease? 10:51AM

23 MS. M. MILLER: Correct -- 10:51AM

24 THE COURT: The answer is no. 10:51AM

25 MS. M. MILLER: -- of this particular lease, 10:51AM

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1 which they have now had an opportunity --

2 THE COURT: I'm sorry, "this page," "this page"
3 meaning --

4 MS. M. MILLER: These pages, yes.

5 THE COURT: -- the signature page?

6 MS. M. MILLER: Yes, the signature page which is
7 on page 3035.

8 MS. MCCONWELL: Completely separate.

9 THE COURT: Okay. So, I'm sorry, the objection
10 is to what now?

11 MS. MCCONWELL: Well, first --

12 THE COURT: Receiving notice of --

13 MS. MCCONWELL: No, no notice of this page.

14 THE COURT: This page, and what -- can you
15 identify it for the record.

16 MS. MCCONWELL: Sorry, 2900-3035.

17 THE COURT: Okay, this is the one I see right in
18 front of me. Okay, so there's no -- no notice of that,
19 uh-huh.

20 And the same with you, Mr. Martin?

21 MR. MARTIN: Yes, Your Honor.

22 THE COURT: Did you have notice of the -- the --
23 was there a draft this? Was there a first -- okay, strike
24 that. Okay, tell -- respond to that then, they didn't have
25 notice of -- they didn't have notice of this page. Is that --

1 you would agree with that?

10:52AM

2 MS. M. MILLER: No, I won't agree with that. I
3 would say that they did have notice of this document, all of
4 2900 --

10:52AM

10:52AM

10:52AM

5 THE COURT: No, that you intended --

10:52AM

6 MS. M. MILLER: -- at least in 2900 --

10:52AM

7 THE COURT: -- to use it, in other words, you
8 intended to use it.

10:52AM

9 MS. M. MILLER: -- but this particular one, no.

10:52AM

10 This one out of the 4,000 pages in 2900, no.

10:52AM

11 THE COURT: All right.

10:52AM

12 MR. MARTIN: I object, Your Honor. I was given
13 two pages, which took me all yesterday afternoon to look them
14 all up, and this isn't one of them.

10:52AM

10:52AM

10:53AM

15 THE COURT: Uh-huh.

10:53AM

16 BY MS. M. MILLER: (CONTINUING)

10:53AM

17 Q. Okay. Let's go --

10:53AM

18 THE COURT: All right.

10:53AM

19 BY MS. M. MILLER: (CONTINUING)

10:53AM

20 Q. -- to Exhibit 2900 --

10:53AM

21 THE COURT: Oh, you're withdrawing --

10:53AM

22 BY MS. M. MILLER: (CONTINUING)

10:53AM

23 Q. -- 1142 --

10:53AM

24 THE COURT: -- your motion?

10:53AM

25 MS. M. MILLER: Yes.

10:53AM

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1 THE COURT: You're withdrawing your motion? 10:53AM

2 MS. M. MILLER: Yes -- 10:53AM

3 THE COURT: Yes, okay -- 10:53AM

4 MS. M. MILLER: -- because I don't want to waste 10:53AM
5 any more time, Your Honor. 10:53AM

6 THE COURT: -- okay, withdrawn. Next question. 10:53AM

7 BY MS. M. MILLER: (CONTINUING) 10:53AM

8 Q. Let's go to 2900-1142, please. 10:53AM

9 THE COURT: Okay. 10:53AM

10 BY MS. M. MILLER: (CONTINUING) 10:53AM

11 Q. And, Special Agent Khamvongsa, you will see that 10:53AM
12 appear before you. 10:53AM

13 MS. M. MILLER: And I believe that's already been 10:53AM
14 entered into evidence; is that correct? 10:53AM

15 MS. MCCONWELL: Yes. 10:53AM

16 MS. M. MILLER: Okay. So we can publish it -- 10:53AM

17 MS. MCCONWELL: So only as to Jon Walker. 10:53AM

18 MS. M. MILLER: -- to the jury as well. 10:53AM

19 THE COURT: 1142? 10:53AM

20 MS. M. MILLER: 1142. 2900-1142. 10:53AM

21 MS. MCCONWELL: And we agree that's only admitted 10:53AM
22 to Jon Walker. 10:53AM

23 MS. M. MILLER: And since this is admitted, can 10:54AM
24 we go ahead and publish to the jury please? 10:54AM

25 THE COURT: Right, that's fine. So this has been 10:54AM

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1 admitted, 2900 --

10:54AM

2 MS. M. MILLER: Yes, Your Honor.

10:54AM

3 THE COURT: -- 1142? All right.

10:54AM

4 MS. M. MILLER: Yes, Your Honor.

10:54AM

5 THE COURT: You may admit that -- I mean, you may
6 publish to the jury if --

10:54AM

7 MS. M. MILLER: Thank you --

10:54AM

8 THE COURT: -- that's admitted.

10:54AM

9 MS. M. MILLER: -- Your Honor.

10:54AM

10 THE COURT: Okay.

10:54AM

11 BY MS. M. MILLER: (CONTINUING)

10:54AM

12 Q. Special Agent Khamvongsa, do you see this exhibit in
13 front of you?

10:54AM

14 A. Yes.

10:54AM

15 Q. Okay. Let me step back for a moment. When you
16 reviewed the leases that we marked for use in evidence as
17 2900, what did you do to correlate the leases, whether they
18 were signed or not, with the information that Hansen
19 Helicopters gave you in 725, 726, and 183?

10:54AM

10:54AM

10:54AM

10:54AM

10:54AM

20 A. Ask the question again --

10:54AM

21 Q. Yes.

10:54AM

22 A. -- I -- I'm -- I don't think I'm understanding it.

10:54AM

23 Q. What did you do to determine whether the lease was
24 actually executed; in other words, that money came in from
25 that helicopter being leased at that period of time?

10:54AM

10:54AM

10:55AM

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1 A. So I used the leases, compared it to what was
2 reflected in what had we discussed about Exhibit 725 and 726.
3 Again, 725 reflects the helicopter and the boat or vessel
4 assignment. And then I reviewed that to see if any payments
5 came in for those leases as it relates to the lease contracts.
6 And then I went into the bank account to see if they actually
7 received the money for the lease -- lease agreements for these
8 particular helicopters.

9 Q. And did you do that for the lease we just talked
10 about that was not introduced even though it wasn't signed?

11 A. Yes.

12 MS. MCCONWELL: Your Honor, I'd object.

13 THE COURT: What's the objection?

14 MR. MARTIN: The objection is she's talking about
15 a document that's not been introduced, she's referred to as a
16 lease. It's a piece of paper that's unsigned.

17 MS. M. MILLER: And that's the issue right there,
18 that statement in front of this jury that it's not a lease
19 because it wasn't signed, when he knows --

20 THE COURT: Oh, wait, wait, Counsel --

21 MR. MARTIN: Your Honor --

22 THE COURT: -- okay, wait, wait, wait.

23 MR. MARTIN: -- we --

24 THE COURT: Wait, wait, wait --

25 MS. M. MILLER: -- it was signed --

1 THE COURT: -- Counsel, just a minute. 10:56AM

2 MR. MARTIN: She knows and -- 10:56AM

3 THE COURT: Just a minute. 10:56AM

4 MR. MARTIN: -- we got to stop this. 10:56AM

5 THE COURT: No, no, no. 10:56AM

6 MR. MARTIN: We got to stop this. 10:56AM

7 THE COURT: Okay, first of all, it says on the 10:56AM
8 very first page it's a lease. 10:56AM

9 MS. M. MILLER: Yes. 10:56AM

10 THE COURT: It just says it's a lease. 10:56AM

11 MR. MARTIN: It's unsigned. 10:56AM

12 THE COURT: Whether it's a lease or not, you 10:56AM
13 know, that -- that's -- anyway, the point is, you're right 10:56AM
14 it's not admitted into evidence, but he's being asked about 10:56AM
15 the process of what he's doing. 10:56AM

16 MS. M. MILLER: Correct. 10:56AM

17 MR. MARTIN: And I don't ask -- have a problem 10:56AM
18 with that, but when she's referring to a document that's not 10:56AM
19 signed, I object -- not -- excuse me. I withdraw that 10:56AM
20 statement. When she's referring to an exhibit that is not 10:56AM
21 admitted, I object to him testifying about an exhibit that has 10:56AM
22 not been admitted. 10:56AM

23 THE COURT: Okay, I thought he was just 10:56AM
24 testifying -- 10:56AM

25 MS. M. MILLER: The question -- 10:56AM

1 THE COURT: Hold on. I thought he was testifying 10:56AM
2 as to the process on the demonstrative exhibit. 10:56AM

3 MS. M. MILLER: Yes. 10:56AM

4 THE COURT: It was a -- wait just a minute. I 10:56AM
5 thought, as I'm listening to this, he's saying the 10:56AM
6 demonstrative exhibit and trying to track payments as to those 10:57AM
7 particular vessels; right? That's -- 10:57AM

8 MR. MARTIN: She made a specific reference to the 10:57AM
9 -- a -- a proposed exhibit that was not admitted. 10:57AM

10 THE COURT: Okay, well, if that's -- if that's 10:57AM
11 the case, if -- if the Counsel -- Counselor is making a 10:57AM
12 reference to an exhibit that's not admitted, then your -- the 10:57AM
13 objection will be sustained. 10:57AM

14 MS. M. MILLER: Let me respond, please. 10:57AM

15 THE COURT: Yeah, uh-hmm. 10:57AM

16 MS. M. MILLER: Throughout this case, this jury 10:57AM
17 has seen Exhibit 2900 and they've seen leases called leases, 10:57AM
18 some signed, some not. This issue goes to credibility. This 10:57AM
19 witness just testified that he used Exhibit 725 -- 10:57AM

20 THE COURT: Okay, wait, wait, Counselor -- 10:57AM

21 MS. M. MILLER: -- which was produced -- 10:57AM

22 THE COURT: -- okay, wait, wait, wait, okay. I 10:57AM
23 don't need you to give me that explanation. What the issue 10:57AM
24 is, is let's focus on, because you withdrew your admission of 10:57AM
25 that -- of that exhibit. Now we're focusing on the process. 10:57AM

1 MS. M. MILLER: We are -- 10:57AM

2 THE COURT: The Court -- 10:57AM

3 MS. M. MILLER: -- the process. 10:57AM

4 THE COURT: Okay. The Court will overrule the
5 objection as to the process -- 10:57AM

6 MS. M. MILLER: The process. 10:57AM

7 THE COURT: -- how he performs his duties on the
8 paperwork that he has before him. But with regard to any
9 document that's not admitted, if there's a reference to that
10 that's not been admitted, the Court will sustain that
11 objection. 10:58AM

12 All right. So you may proceed. 10:58AM

13 MS. M. MILLER: Yes, Your Honor. 10:58AM

14 BY MS. M. MILLER: (CONTINUING) 10:58AM

15 Q. In terms of your process of verifying whether there
16 was in fact a lease where there was payment made, could you
17 please explain to the jury what you did to ensure that that
18 process was complete? 10:58AM

19 A. Again, I went through multiple steps. I -- first, I
20 looked at the bank accounts: Did money come in from the tuna
21 boat companies? And then I identified the tuna boat companies
22 which made the payments on the billing schedule that we just
23 discussed in 726. There I compared to see the date and the
24 amount to what's reflected in the bank account. Okay? 10:58AM

25 And then from there, I tried to identify what 10:58AM

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1 helicopter was assigned to the tuna boat. So then we go to
2 725. 725 reflects the aircraft assigned to the vessel.

3 Then from there, I'll look at the lease, I'll look at
4 the registrations with the FAA, I'll review the pilots and
5 mechanics assigned to that helicopter.

6 Q. Okay. And now let's look at the lease in front of
7 you, sir, which has been entered into evidence as
8 Exhibit 2900-1142?

9 MS. M. MILLER: And, Mr. Leon Guerrero, if you
10 could just include the top portion including the recitals but
11 stop above (B). Yup, thank you so much.

12 BY MS. M. MILLER: (CONTINUING)

13 Q. Okay. So what is the date of this lease, sir?

14 A. It's identified as June 27th, 2008.

15 Q. And that's within the timeframe of the conspiracy to
16 commit wire fraud as alleged in the Second Superseding
17 Indictment indictment?

18 A. Yes.

19 Q. And who is identified as the lessor of this
20 particular aircraft?

21 A. Wilma's Flight Service.

22 Q. And what is the registration number of this
23 particular aircraft?

24 A. The registration number is reflected as N454S.

25 Q. Did you look at, as Ms. McConwell asked you, the

1 registration information relating to this aircraft? 11:00AM

2 A. Yes. 11:00AM

3 MS. M. MILLER: Could we, please, pull up the 11:00AM

4 summary chart for registrations which has been entered into 11:00AM

5 evidence as Exhibit 1252, I believe. 11:00AM

6 BY MS. M. MILLER: (CONTINUING) 11:00AM

7 Q. N454S, is that the correct number of the helicopter? 11:00AM

8 A. Yes, that is correct, N454S. 11:00AM

9 MS. M. MILLER: Okay. If we could go to N454S, 11:01AM

10 please. And can you highlight that please? All the way down 11:01AM

11 to the bottom, please. All the way. Yup, perfect. Thank 11:01AM

12 you. 11:01AM

13 BY MS. M. MILLER: (CONTINUING) 11:01AM

14 Q. Could you tell the members of the jury who registered 11:01AM

15 that aircraft in 1996, it looks like? 11:01AM

16 A. Hansen Helicopters. 11:02AM

17 Q. And then who registered that aircraft in 1999? 11:02AM

18 A. Eddie Air, Inc. 11:02AM

19 Q. And let's look at Exhibit 829, please, sir. Do you 11:02AM

20 see Eddie Air, Inc. on Exhibit 829 as one of the Vanuatu 11:02AM

21 companies? 11:02AM

22 A. Yes, that's correct. 11:02AM

23 Q. Who registered the helicopter after Eddie's Air? 11:02AM

24 A. Dave's Helicopter. 11:02AM

25 Q. Who was the registered owner of the helicopter 11:02AM

Direct - Khamvongsa

1 according to what was filed with the FAA at the time that the
2 lease was entered into that we just saw?

3 A. Dave's Helicopter Service, Inc.

4 Q. Now, let's go back to that lease, 2900-1142. And, by
5 the way, Dave's Helicopter, Inc. also a Vanuatu company on
6 Exhibit 829?

7 A. Yes, that's correct.

8 Q. And who's signing these registrations as we see on
9 Exhibit 1252?

10 A. Defendant Jon Walker.

11 Q. Okay. Now, who --

12 MS. M. MILLER: Can you go to the end of this
13 lease, please and let's remind the jury who signed this lease.

14 THE COURT: Give me the number on that too,
15 what's exhibit number --

16 MS. M. MILLER: Yes, Your Honor, we will --

17 THE COURT: -- when you get to it.

18 MS. M. MILLER: -- when we get --

19 THE COURT: Okay.

20 MS. M. MILLER: Mm-hmm.

21 THE COURT: Okay.

22 MS. M. MILLER: And could you highlight the
23 signature, please.

24 BY MS. M. MILLER: (CONTINUING)

25 Q. Special Agent Khamvongsa, who signed this lease?

Direct - Khamvongsa

1 A. Defendant Jon Walker.

11:04AM

2 Q. Okay. And could we go back to the page 1 of the
3 lease, and the first paragraph that identifies the lessor
4 company, who is the lessor company identified in this lease?

11:04AM

11:04AM

5 A. Wilma's Flight Service, Inc.

11:05AM

6 Q. In June 27th of 2008, was Wilma's Flight Service,
7 Inc. the registered owner of the helicopter according to the
8 FAA records?

11:05AM

11:05AM

9 A. No.

11:05AM

10 Q. I'd like you to look at what has been previously
11 marked as Government Exhibit 2900-3522.

11:05AM

11:05AM

12 MS. M. MILLER: And, Mr. Leon Guerrero, could you
13 highlight the top portion of that, please.

11:06AM

11:06AM

14 BY MS. M. MILLER: (CONTINUING)

11:06AM

15 Q. Do you see this document, sir?

11:06AM

16 A. Yes.

11:06AM

17 Q. Okay. Do you see the date? Could you tell the
18 members of the jury what the date is?

11:06AM

11:06AM

19 A. January 27th, 2016.

11:06AM

20 Q. And is this within the timeframe of the alleged
21 conspiracy to commit wire fraud?

11:06AM

11:06AM

22 A. Yes.

11:06AM

23 MS. M. MILLER: Mr. Leon Guerrero, can you
24 highlight the registration number of the aircraft being leased
25 in this document.

11:06AM

11:06AM

11:06AM

1 BY MS. M. MILLER: (CONTINUING)

11:06AM

2 Q. And do you see that registration number, sir?

11:06AM

3 A. Yes.

11:06AM

4 Q. And what is that registration number?

11:06AM

5 THE COURT: Sorry, hold on, hold on. Hold on one
6 second.

11:06AM

11:06AM

7 MS. M. MILLER: Yes, Your Honor.

11:06AM

8 THE COURT: Hold on, just check with my Court --
9 clerk just a minute. Is that 2900 -- what was the last --

11:06AM

11:06AM

10 MS. M. MILLER: 35 --

11:07AM

11 THE COURT: 3522.

11:07AM

12 MS. M. MILLER: 3522, Your Honor, through 3527.
13 I'm laying the foundation for its admission.

11:07AM

11:07AM

14 THE COURT: Oh, okay, very well. Thank you.

11:07AM

15 MS. M. MILLER: Yes, Your Honor.

11:07AM

16 THE COURT: I just wanted clarification. Go
17 ahead.

11:07AM

11:07AM

18 BY MS. M. MILLER: (CONTINUING)

11:07AM

19 Q. Is that registration number one of the numbers that
20 was on Exhibit 725 that the jury just saw that you received
21 from Hansen Helicopters, sir?

11:07AM

11:07AM

11:07AM

22 A. Yes.

11:07AM

23 MS. M. MILLER: Your Honor, at this time the
24 Government would offer into evidence what has been previously
25 marked as Government's Exhibit 2900-3522 to 3527.

11:07AM

11:07AM

11:07AM

Direct - Khamvongsa

1 THE COURT: Let me let Counsels look at that -- 11:07AM
2 those numbers and see if there is any objections. 11:07AM

3 (Pause.) 11:07AM

4 MR. MARTIN: 3522, 3527? 11:07AM

5 MS. M. MILLER: That's correct, Your Honor. 11:07AM

6 MR. MARTIN: No objection. 11:07AM

7 MS. MCCONWELL: And admitted to Jon Walker only, 11:07AM
8 not to Hansen Helicopters. 11:07AM

9 THE COURT: All right. Ladies and gentlemen of 11:07AM
10 the jury, Exhibit 2900-3522 through 3527 is admitted without 11:07AM
11 objection as to Jon Walker. Okay. You may proceed. 11:08AM

12 (Exhibits 2900-3522 through 3527 admitted.) 11:08AM

13 MS. M. MILLER: May I publish it to the jury, 11:08AM
14 Your Honor? 11:08AM

15 THE COURT: You may. You may. 11:08AM

16 BY MS. M. MILLER: (CONTINUING) 11:08AM

17 Q. Special Agent Khamvongsa, did I just write the 11:08AM
18 correct number of the -- the registration number on the board 11:08AM
19 that is the subject of this lease? 11:08AM

20 A. N369V is the -- that is the same number that I'm 11:08AM
21 seeing here on the screen. 11:08AM

22 MS. M. MILLER: Okay. And, Mr. Leon Guerrero, 11:08AM
23 let's go to the top portion of the lease that shows who the 11:08AM
24 lessor is. 11:08AM

25 BY MS. M. MILLER: (CONTINUING) 11:08AM

Direct - Khamvongsa

1 Q. And, Special Agent Khamvongsa, could you tell the 11:08AM
2 members of the jury who is the lessor identified in this 11:08AM
3 lease? 11:08AM

4 A. Wilma's Flight Service, Inc. 11:08AM

5 Q. Okay. And the date of this lease, sir? 11:08AM

6 A. January 27th, 2016. 11:09AM

7 Q. And could we go back to Exhibit 252, the registration 11:09AM
8 chart, and could you tell the members of the jury which 11:09AM
9 company was identified as the register owner of 369V in 11:09AM
10 January of 2016? And it will take a second to flip back over 11:09AM
11 that chart. 11:09AM

12 MS. M. MILLER: And could you go to the page that 11:09AM
13 has November 369V, please. I think it's the prior page. 11:09AM

14 THE COURT: We have about 38 minutes before -- 11:10AM

15 MS. M. MILLER: Lunch. 11:10AM

16 THE COURT: -- lunchtime, yeah. How much longer 11:10AM
17 do you have with this witness do you think, Ms. -- 11:10AM

18 MS. M. MILLER: With objections or without? 11:10AM

19 THE COURT: No need to be smarty. 11:10AM

20 MS. M. MILLER: With objections, eh -- probably 11:10AM
21 to the end of the day. 11:10AM

22 THE COURT: Okay. All right. 11:10AM

23 BY MS. M. MILLER: (CONTINUING) 11:10AM

24 Q. So, Special Agent Khamvongsa, let's highlight N369V, 11:10AM
25 please, on the registration chart. 11:11AM

Direct - Khamvongsa

1 MR. LEON GUERRERO: Sorry, I just need one 11:11AM
2 moment. 11:11AM

3 MS. M. MILLER: Okay. 11:11AM

4 THE COURT: This has already been admitted, did 11:11AM
5 you say? 11:11AM

6 MS. M. MILLER: This has already been admitted, 11:11AM
7 Your Honor, yes. 11:11AM

8 BY MS. M. MILLER: (CONTINUING) 11:11AM

9 Q. Okay. So, Special Agent Khamvongsa, can you tell the 11:11AM
10 members of the jury which company was the registered owner of 11:11AM
11 this helicopter according to the paperwork filed with the FAA 11:11AM
12 at the time of the lease? 11:11AM

13 A. Foxtrot Air, Inc. 11:11AM

14 Q. And who signed that registration paperwork? 11:11AM

15 A. Jon Walker, Defendant Jon Walker. 11:11AM

16 Q. Now, let's go back to the lease. And if we look at 11:12AM
17 first paragraph again, can you tell the members of the jury 11:13AM
18 what was the name of the boat that this helicopter was leased 11:13AM
19 to? 11:13AM

20 A. The date? 11:13AM

21 Q. The name of the boat. 11:13AM

22 A. Oh, the name of the boat, I apologize. 11:13AM
23 Sea Bounty, LLC/South Pacific Tuna Corp. 11:13AM

24 Q. And the date on this lease, sir? 11:13AM

25 A. January 27, 2016. 11:13AM

Direct - Khamvongsa

1 Q. Okay. 11:13AM

2 MS. M. MILLER: And now let's go to page 2 of the 11:13AM
3 lease, Mr. Leon Guerrero. And if we look at top of the page, 11:13AM
4 can you highlight the top of the page, sir. 11:14AM

5 BY MS. M. MILLER: (CONTINUING) 11:14AM

6 Q. How long was this lease supposed to last for? 11:14AM

7 A. This lease shall be for a period of 36 months from 11:14AM
8 the occurrence of delivery of the aircraft. 11:14AM

9 Q. Okay. Now, did you actually go back and look at 11:14AM
10 Exhibits 725 and 726 to ensure that this particular aircraft 11:14AM
11 was listed in those two documents? 11:14AM

12 A. Yes. 11:14AM

13 Q. And could you tell the members of the jury, was that 11:14AM
14 particular aircraft listed in those two documents? 11:14AM

15 A. The aircraft is listed in the aircraft vessel, but 11:14AM
16 it's not listed in the schedule of billings. What's listed is 11:14AM
17 the tuna boat company, which is referenced as Sea Bounty and 11:14AM
18 South Pacific Tuna Company. 11:15AM

19 Q. Okay. Let's go back to Exhibit 725 which was 11:15AM
20 admitted into evidence already, and let's locate this 11:15AM
21 particular aircraft in Exhibit 725. 11:15AM

22 MS. M. MILLER: Okay. And could you do a search, 11:15AM
23 Mr. Leon Guerrero, for -- yup, there we go. And we're 11:15AM
24 highlighting that portion of 725. 11:15AM

25 BY MS. M. MILLER: (CONTINUING) 11:15AM

Direct - Khamvongsa

1 Q. So do you see that aircraft that was part of that 11:15AM
2 lease, sir? 11:15AM

3 A. Yes. 11:15AM

4 Q. And -- 11:15AM

5 MS. MCCONWELL: I have a question, are we on 11:15AM
6 page 1? Is that where you're highlighting on page 1? I would 11:15AM
7 object to -- 11:15AM

8 MS. M. MILLER: It is on page 1, which is on the 11:15AM
9 screen, Your Honor. 11:15AM

10 MS. MCCONWELL: Yeah, I would object to the time 11:15AM
11 frame. 11:15AM

12 MS. M. MILLER: It's identified as that. 11:15AM

13 THE COURT: I'm sorry? You're objecting what? 11:15AM

14 MS. MCCONWELL: Okay, never mind. 11:15AM

15 THE COURT: No objection? Okay. Go ahead, 11:15AM
16 proceed. 11:16AM

17 BY MS. M. MILLER: (CONTINUING) 11:16AM

18 Q. And do you see the name of the vessel? 11:16AM

19 A. Yes, the vessel is Sea Bounty. 11:16AM

20 Q. And does that match up with the lease that we just 11:16AM
21 saw? 11:16AM

22 A. Yes, it does. 11:16AM

23 Q. Is there any place else on this document where we see 11:16AM
24 a reference to N369V? 11:16AM

25 A. It's referenced throughout the document. 11:16AM

1 Q. Okay.

11:16AM

2 A. And, in the range of this document, it goes from
3 August 2014 to May of 2018.

11:16AM

11:16AM

4 Q. Okay. And you said that Sea bounty is also on
5 Exhibit 726. Can we go to Exhibit 726 please, and can you,
6 please, go to Sea Bounty.

11:16AM

11:16AM

11:17AM

7 (Pause.)

11:17AM

8 BY MS. M. MILLER: (CONTINUING)

11:17AM

9 Q. Okay. Sir, do you see that reference to Sea Bounty
10 on Exhibit 726 as well?

11:18AM

11:18AM

11 A. Yes.

11:18AM

12 Q. Okay. And then with the schedule of billings and
13 records that you reviewed in this case, can you tell the
14 members of the jury, was there anything different that
15 occurred during the three-year period of this lease that
16 changed that number from N369V to something else?

11:18AM

11:18AM

11:18AM

11:18AM

11:18AM

17 A. If we -- if you go back to the prior exhibit, the
18 aircraft vessel exhibit, you'll see that there is a small
19 break sometime around January 2017 which a different boat is
20 identify -- or, I mean, excuse me, helicopter is identified.

11:18AM

11:18AM

11:18AM

11:18AM

21 Q. Okay. And could you go back to 725 please, and to
22 January 5th of 2017, and do you remember what the registration
23 number was of the helicopter that was used with Sea Bounty
24 during that short period of time?

11:18AM

11:19AM

11:19AM

11:19AM

25 A. I don't remember the exact. I just recall it being a

11:19AM

Direct - Khamvongsa

1 RP number -- an RP prefix, which is a Philippine aircraft. 11:19AM

2 Q. Okay. We're going to locate it in 725 and we will -- 11:19AM
3 we'll show you and the jury. 11:19AM

4 And do you see the RPC number there with Sea Bounty 11:19AM
5 on page 15 of Exhibit 725? 11:19AM

6 A. Yes. 11:19AM

7 Q. And could you read that RPC number to the jury 11:19AM
8 please? 11:20AM

9 A. It is RPC4913. 11:20AM

10 Q. What happened before January of 2017, regarding 11:20AM
11 Hansen Helicopters, immediately prior to January of 2017? 11:20AM

12 A. There was immediately -- there was a transfer of 11:20AM
13 funds of over 7 million -- approximately \$7 million in 11:20AM
14 December of 2016 from Hansen Northern Helicopters to Walker 11:20AM
15 Agricola as well as, in October 2016, there was the FBI search 11:20AM
16 warrant that was conducted at Hansen facilities. 11:20AM

17 Q. Okay. If we go back to the lease, sir, let's look at 11:20AM
18 the very first paragraph of the lease underneath the 11:20AM
19 identification of the lessor and the helicopter. 11:21AM

20 MS. M. MILLER: No, that's not it. 11:21AM

21 (Pause.) 11:21AM

22 MS. M. MILLER: It's 3522. Yup. 3522, not 3552. 11:21AM

23 (Speaking to co-Counsel.) 11:22AM

24 MS. M. MILLER: Okay. And if you could 11:22AM
25 highlight, Mr. Leon Guerrero, that first section including 11:22AM

1 (A), the top section including (A), including lease of the 11:22AM
2 aircraft. 11:22AM

3 BY MS. M. MILLER: (CONTINUING) 11:22AM

4 Q. Okay. So can you read what subsection (A) says 11:22AM
5 there, sir? 11:22AM

6 A. "The operator is the registered owner of an aircraft 11:22AM
7 described as follows: Helicopter manufacturer, Hughes; model 11:22AM
8 number 369A; serial number 191021; registration number N369V. 11:22AM
9 The above referred to as the aircraft is available for 11:22AM
10 delivery to lessee." 11:22AM

11 Q. Now, the first paragraph of this lease identifies who 11:22AM
12 as the operator? 11:23AM

13 A. Who's the -- Wilma's Flight Services, Inc. 11:23AM

14 Q. The registered owner of this helicopter, however, at 11:23AM
15 this same time was -- 11:23AM

16 MS. MCCONWELL: Your Honor, I object, that's a 11:23AM
17 misstatement of the document. The document speaks for itself. 11:23AM

18 THE COURT: Yeah, the Court will sustain the 11:23AM
19 objection as to the last question. 11:23AM

20 MS. M. MILLER: The -- the last question, Your 11:23AM
21 Honor? 11:23AM

22 THE COURT: Uh-huh. 11:23AM

23 MS. M. MILLER: Okay. 11:23AM

24 BY MS. M. MILLER: (CONTINUING) 11:23AM

25 Q. Who is identified as the registered owner of this 11:23AM

1 aircraft at the time of this lease?

11:23AM

2 A. Foxtrot Air.

11:23AM

3 MR. MARTIN: Your Honor, I object, that's not
4 what the document says if he's referring to the document.

11:23AM

5 THE COURT: All right. The Court will sustain
6 the objection.

11:23AM

11:23AM

7 MS. M. MILLER: Your Honor --

11:23AM

8 THE COURT: You want to maybe rephrase that.

11:23AM

9 MS. M. MILLER: -- the registered owner was shown
10 in Exhibit 1252, which is the summary chart of registrations.

11:23AM

11:23AM

11 THE COURT: All right.

11:23AM

12 MS. M. MILLER: The question --

11:23AM

13 THE COURT: All right. So is it -- so is that
14 where it's coming from --

11:23AM

11:23AM

15 MS. M. MILLER: Yes.

11:23AM

16 THE COURT: -- the summary chart?

11:23AM

17 MS. M. MILLER: Yes.

11:23AM

18 THE COURT: All right. Counsel?

11:23AM

19 MR. MARTIN: That's not what she asked.

11:23AM

20 MS. M. MILLER: That is --

11:23AM

21 MR. MARTIN: She asked who was the registered
22 owner.

11:23AM

11:23AM

23 THE COURT: All right. So, yeah, so -- so, I
24 mean, just for clarification then that's fine --

11:23AM

11:23AM

25 MS. M. MILLER: Yes, Your Honor.

11:23AM

Direct - Khamvongsa

1 THE COURT: -- maybe you can -- 11:23AM

2 BY MS. M. MILLER: (CONTINUING) 11:23AM

3 Q. Go back please -- 11:23AM

4 MS. M. MILLER: Mr. Leon Guerrero, can you, 11:23AM
5 please, highlight the first part of this lease that identifies 11:24AM
6 the operator? 11:24AM

7 THE COURT: All right. Okay. I just got a note 11:24AM
8 from one of the jurors they have to use the restroom, so why 11:24AM
9 don't we -- let's just go ahead and take our lunch break. Let 11:24AM
10 me -- hopefully the lunch is here already. Let's just go take 11:24AM
11 our lunch break early. Let's do it now -- 11:24AM

12 MS. M. MILLER: Yes, Your Honor. 11:24AM

13 THE COURT: -- since -- so we don't have to come 11:24AM
14 back. 11:24AM

15 All right. Please keep an open mind. Do not 11:24AM
16 form or express any opinion on this case until it's submitted 11:24AM
17 to you. Do not speak to anyone on any subject connected to 11:24AM
18 the trial. I'll see you guys as soon as we have our lunch. 11:24AM
19 Hopefully it's delivered. Go ahead. Sorry about that. 11:24AM

20 (Jury out at 11:24 p.m.) 11:24AM

21 THE COURT: So hopefully lunch is already here. 11:24AM
22 We can come back 15 minutes earlier. So let's see, let's try 11:25AM
23 to come back at -- well, let's -- well, we'll assume that -- 11:25AM
24 just come back at 1:15 unless we tell you otherwise. 11:25AM

25 MS. M. MILLER: Yes, Your Honor. 11:25AM

1 THE COURT: Okay. Because hopefully it's here. 11:25AM
2 (Recess taken at 11:25 a.m.) 11:25AM
3 (Back on the record at 12:25 p.m.) 12:25PM
4 THE COURT: So still not till this afternoon? 12:25PM
5 Just checking the... 12:25PM
6 MS. M. MILLER: Maybe Friday the way it's going. 12:25PM
7 THE COURT: Don't say that. Don't say that. 12:25PM
8 MR. MARTIN: I could read you a quote from the 12:25PM
9 transcript that's very enlightening, Your Honor, about the 12:25PM
10 length of time it will take to finish the testimony. 12:25PM
11 MS. M. MILLER: And I could read the objections 12:25PM
12 that were repeated over and over and over and over again even 12:26PM
13 after they'd been overruled. 12:26PM
14 MR. MARTIN: Well, those were sustained very good 12:26PM
15 too, Your Honor, if we're going to get into that. 12:26PM
16 THE COURT: All right. I feel like -- I feel 12:26PM
17 like David Lujan still in the courthouse. (Laughing.) 12:26PM
18 Getting more feisty. All right. No, I'm just teasing. 12:26PM
19 We'll call in the jurors. Okay. So you're going 12:26PM
20 to have him, the witness, testify until the end? 12:26PM
21 MS. M. MILLER: Yeah, my guess is it will be -- 12:26PM
22 THE COURT: Until this afternoon? Okay. 12:26PM
23 MS. M. MILLER: Yup. 12:26PM
24 THE COURT: All right. Then we'll figure out how 12:26PM
25 many -- how much time you guys want for closing arguments. 12:26PM

Direct - Khamvongsa

1 Yeah, so just think about it, Counsels. We'll talk about
2 that.

3 (Pause.)

4 MS. M. MILLER: Could we also discuss, Your
5 Honor, potentially going on a little bit longer if we need to.

6 THE COURT: Yeah, we can do that. Let's see how
7 today goes.

8 MS. M. MILLER: Okay.

9 THE COURT: It's not going so well, but let's see
10 how it goes today.

11 THE WITNESS: Sorry.

12 THE COURT: No, it's not your fault. It's just
13 that's way it goes. That's -- it's how trial goes. Nothing
14 surprises me in trial, let's put it that way. Uh-huh.

15 (Pause.)

16 THE COURT: No, we could discuss that. Maybe we
17 could do that, you know, maybe tomorrow we'll go longer --

18 MS. M. MILLER: Yeah, that's --

19 THE COURT: -- or start earlier.

20 MS. M. MILLER: I think that would be -- that
21 would be good.

22 THE COURT: Do I have anything in the morning?

23 MR. MARTIN: Your Honor, the only concern I have
24 I don't know what our jurors' schedules are --

25 THE COURT: Yeah.

1 MR. MARTIN: -- and going longer impacts them. 12:27PM

2 THE COURT: Yeah, I mean, I'll have all -- I'll 12:27PM

3 call on and -- let me call -- Emily, can you ask Lani to -- 12:27PM

4 I'll talk to Lani. I'll have Lani talk to them at break and 12:27PM

5 say, hey, we're thinking about trying to push this along and 12:27PM

6 -- because you think -- well, you think the other two 12:27PM

7 witnesses will take four hours each based on -- 12:28PM

8 MS. M. MILLER: Yes. 12:28PM

9 THE COURT: Okay. Oh, you think two hours each? 12:28PM

10 MS. MCCONWELL: No, I think two days each. 12:28PM

11 THE COURT: Wow. 12:28PM

12 MS. M. MILLER: I've gone through my questions 12:28PM

13 with them, it's -- 12:28PM

14 THE COURT: Oh, you mean like -- you mean like 12:28PM

15 total, not just her? 12:28PM

16 MS. MCCONWELL: No, I'm just based on -- based on 12:28PM

17 the time estimates from prior witnesses, I anticipate that 12:28PM

18 Mr. Guzzetti and Mr. Klang will each take two days. When 12:28PM

19 Mr. Khamvongsa started on the 8th of -- did I say that right? 12:28PM

20 THE WITNESS: Absolutely. 12:28PM

21 MS. MCCONWELL: Okay. When he started on the 8th 12:28PM

22 of June, we were told that this would be about a 45-minute 12:28PM

23 witness and we're now on -- we're now into the afternoon of 12:28PM

24 day two on this witness. 12:28PM

25 THE COURT: Uh-huh. 12:28PM

Direct - Khamvongsa

1 MS. MCCONWELL: So -- 12:28PM

2 MS. M. MILLER: And, Your Honor -- 12:28PM

3 MS. MCCONWELL: -- if Mr. Guzzetti and Mr. Klang 12:28PM
4 are represented to be each four-hour witnesses, I would 12:28PM
5 anticipate that they're probably -- 12:28PM

6 THE COURT: And that also depends on my rulings 12:28PM
7 too. I mean, so we have the -- is both of them there's a 12:28PM
8 request -- well, there is a request for -- for Mr. Klang to be 12:29PM
9 a summary witness. 12:29PM

10 MS. M. MILLER: Correct. 12:29PM

11 MS. MCCONWELL: Well, if -- if Mr. Klang's 12:29PM
12 testimony is estimated, I think he'll go longer. 12:29PM

13 THE COURT: Oh, I don't know, but you're assuming 12:29PM
14 that that's -- 12:29PM

15 MR. MCCONWELL: We're assuming. 12:29PM

16 THE COURT: -- if I grant that request is four? 12:29PM

17 MS. M. MILLER: Yes, Your Honor. 12:29PM

18 THE COURT: Okay. All right. Well, then -- 12:29PM
19 All right. Call in the jury. 12:29PM

20 MS. M. MILLER: Your Honor, our colleagues are 12:29PM
21 reporting they're not getting sound. 12:29PM

22 THE COURT: I'm sorry? 12:29PM

23 MR. MCCONWELL: I'm getting no sound on my -- 12:29PM

24 THE COURT: No -- no sound? 12:29PM

25 MS. M. MILLER: Yeah, I think there's -- oh, now 12:29PM

Direct - Khamvongsa

1 it is? Now it is. Okay, never mind. 12:29PM

2 THE CLERK: Sorry, I forgot to turn on the... 12:29PM

3 THE COURT: Oh, just now? Okay. Oh, do you mean 12:29PM

4 like -- because it's getting zoomed out? 12:29PM

5 MS. M. MILLER: Yes, they weren't hearing it. 12:29PM

6 Yeah, thank you. 12:29PM

7 THE CLERK: My apologies, Your Honor. 12:29PM

8 THE COURT: Okay, that's fine. You can hear 12:29PM

9 okay, though, Mr. McConwell, Mr. Han, everybody? Okay. 12:29PM

10 (Jury in at 12:29 p.m.) 12:29PM

11 THE COURT: Welcome back, ladies and gentlemen of 12:29PM

12 the jury. I hope your lunch was okay. All right. We'll go 12:29PM

13 ahead and start -- continue on with this witness. 12:29PM

14 You may proceed, Ms. Marie Miller. 12:29PM

15 MS. M. MILLER: Yes, Your Honor. Thank you. 12:30PM

16 BY MS. M. MILLER: (CONTINUING) 12:30PM

17 Q. Special Agent Khamvongsa, let's go back to 12:30PM

18 Exhibit 1252, and I'm going to have Ms. Miller now show that 12:30PM

19 on the screen at the name of the registered owner of 369V, and 12:30PM

20 then we're also going to look at the lease for that 12:30PM

21 helicopter. 12:30PM

22 MS. MCCONWELL: Which page of 125 -- 1252? 12:30PM

23 THE COURT: What did you say, what -- 12:30PM

24 MS. M. MILLER: It will be up on the screen in a 12:30PM

25 moment, Your Honor. 12:30PM

Direct - Khamvongsa

1 THE COURT: Okay. Yeah, what exhibit is coming 12:30PM
2 up? 1252? 12:30PM
3 MS. M. MILLER: Yes. 12:30PM
4 THE COURT: Has this already been admitted? 12:30PM
5 MS. M. MILLER: Yes, it's already been admitted. 12:30PM
6 We've already actually shown it to the jury -- 12:30PM
7 THE COURT: Okay. 12:30PM
8 MS. M. MILLER: -- but there has been an 12:30PM
9 objection, so we're going back to it because I don't know that 12:30PM
10 Counsel remembers the -- the name. 12:30PM
11 THE COURT: All right. 1252, what -- okay, let's 12:30PM
12 pull it up. 12:30PM
13 MS. M. MILLER: Yeah. 12:30PM
14 MS. MCCONWELL: What page? 12:30PM
15 THE COURT: I think she's going to pull it up 12:30PM
16 right now. 12:30PM
17 MS. MCCONWELL: Okay. 12:30PM
18 THE COURT: Page 8, okay. 1252, page 8. 12:30PM
19 MS. M. MILLER: Okay. So what we see here on the 12:31PM
20 screen, Your Honor -- an both of these exhibits have already 12:31PM
21 been entered into evidence, so if we could show it to the 12:31PM
22 jury. 12:31PM
23 THE COURT: Okay. 12:31PM
24 BY MS. M. MILLER: (CONTINUING) 12:31PM
25 Q. Special Agent Khamvongsa, could you remind the jury, 12:31PM

Direct - Khamvongsa

1 please, sir, what is the name of the registered owner of the
2 helicopter we identified as N369V?

3 A. Foxtrot Air.

4 Q. And what is the name of the lessor entering into the
5 contract with the tuna boat company that you see below the
6 excerpt from 1252?

7 A. Wilma's Flight Service.

8 Q. All right.

9 MS. M. MILLER: Ms. Miller, now could you please
10 get rid of 1252 and go to Section 8 of the lease, (pause) and
11 can you highlight that section. Thank you.

12 BY MS. M. MILLER: (CONTINUING)

13 Q. Special Agent Khamvongsa, could you, please, read
14 that paragraph to the jury?

15 A. "The registration and title to the aircraft shall be
16 in the name of the lessor and the aircraft at all times during
17 the term of this agreement or automatic renewals shall bear
18 internationally-recognized registration markings."

19 Q. Let me stop you there for a moment. Was the
20 registration and title to the aircraft in the name of the
21 lessor?

22 A. The lessor on this lease agreement does not match up
23 with what's in the registration of the FAA.

24 Q. Okay. Now, sir, let's look at Section 5 of the
25 lease. Do you see Section 5?

Direct - Khamvongsa

1 A. Yes. 12:34PM

2 Q. And could you please read the sentence that starts 12:34PM
3 with the "at the sole discretion of the lessor"? 12:34PM

4 A. "At the sole discretion of the lessor, lessor shall 12:34PM
5 provide a fully qualified and licensed pilot, mechanic, or 12:34PM
6 pilot mechanic for flight operations and maintenance of the 12:34PM
7 aircraft." 12:34PM

8 Q. Sir, do you know who the mechanics were that were 12:34PM
9 assigned to this particular aircraft? 12:34PM

10 A. Yes. 12:34PM

11 Q. How do you know? 12:34PM

12 A. I know because it's based upon the records I received 12:34PM
13 from Hansen Helicopters, as well as my review at FAA records. 12:34PM

14 Q. And who were those mechanics, sir? 12:34PM

15 A. The mechanics during this time is -- the -- the 12:34PM
16 mechanics were Dixey Dizon and Vilamore Fabian, Jr. 12:34PM

17 Q. Were they certified by the FAA at the time that they 12:34PM
18 were working on this aircraft? 12:34PM

19 A. No, they were not FAA-certificated mechanics. 12:34PM

20 Q. Okay. Let's go to Section 13 of this lease, please, 12:35PM
21 and could you tell the members of the jury what law applies in 12:35PM
22 the event that there were any issues with this lease? 12:35PM

23 A. The laws of United States -- the laws of United 12:35PM
24 States jurisdiction where appropriate. 12:35PM

25 Q. Okay. Now, let's look at Section 4 of the lease. 12:35PM

Direct - Khamvongsa

1 Now, when we look at Section 4 of the lease, can you please
2 read the first sentence of the second paragraph there
3 regarding indemnification and insurance?

4 A. The first sentence of which?

5 Q. Second paragraph, please.

6 A. "Lessor shall maintain in full force and effect
7 sufficient insurance to cover loss of or damage to the
8 aircraft resulting from flight operations or maintenance
9 procedures performed by members of the air crew."

10 Q. Could you tell the members of the jury in this case
11 who is the lessor?

12 A. The lessor is -- as it -- as it relates to this
13 contract?

14 Q. Yes.

15 A. Is Wilma's Flight Services, Inc.

16 Q. And did your investigation uncover the insurance that
17 the lessor had or did not have in this case?

18 A. The -- Wilma's Flight Services did not have any
19 outside or third-party insurance.

20 Q. Okay. Now, let's look at the first paragraph, and
21 can you read the first sentence of the first paragraph to the
22 jury about the tuna boat companies' obligations?

23 A. So again read the first paragraph?

24 Q. Just read the first sentence of the first paragraph.

25 A. "Lessee agrees to indemnify lessor against all

1 losses, including costs and expenses, by reasons of claims for 12:37PM
2 injury to or death of persons and loss or damage to property 12:37PM
3 arising from or in a manner connected with the negligent 12:37PM
4 possession, use, or operation of the aircraft by lessee or its 12:37PM
5 agent during the term of this lease." 12:37PM

6 Q. During the course of this investigation, sir, did you 12:37PM
7 determine whether the lessee in this case did, in fact, obtain 12:37PM
8 insurance in conjunction with Section 4 of this lease? 12:37PM

9 A. Yes. 12:37PM

10 Q. And could you explain to the jury how you determined 12:37PM
11 that? 12:37PM

12 A. I obtained insurance documents from South Pacific 12:37PM
13 Tuna Company which is identified in this contract, and they 12:37PM
14 provided it to me. 12:37PM

15 MS. MCCONWELL: Your Honor, I object, I think the 12:37PM
16 question's non-responsive and there's no foundation. I mean, 12:37PM
17 the response is non-responsive and there's no foundation. 12:37PM

18 THE COURT: All right. Rephrase the question 12:37PM
19 then. 12:37PM

20 MS. M. MILLER: Yes. 12:37PM

21 BY MS. M. MILLER: (CONTINUING) 12:37PM

22 Q. Could you please tell the members of the jury what 12:37PM
23 you reviewed that supports your earlier testimony that you did 12:37PM
24 obtain information regarding this particular tuna boat 12:38PM
25 company's obtaining of insurance? 12:38PM

1 A. I reviewed an insurance policy from South Pacific --
2 South Pacific Tuna Company Corporation that --

3 MS. MCCONWELL: Your Honor, I object to him
4 testifying about something not in evidence.

5 THE COURT: All right. Just -- just say what you
6 reviewed, that's it. Don't say what it says. Just say what
7 you reviewed. She just asked what did you review.

8 THE WITNESS: Okay.

9 THE COURT: So just -- I reviewed "X". Whatever
10 that "X" is. And hold on a second. Yeah, go ahead. Okay.

11 BY MS. M. MILLER: (CONTINUING)

12 Q. So you reviewed an insurance policy?

13 A. Yes.

14 Q. Okay. I'd like you to look at what has been entered
15 -- not entered into evidence, marked as Exhibit 0092, and it
16 will come up in front of you in one moment.

17 THE COURT: What is that again, 0092?

18 MS. M. MILLER: Yes, Your Honor.

19 THE COURT: Okay. Dash one here?

20 MS. M. MILLER: Yes.

21 THE COURT: Okay.

22 BY MS. M. MILLER: (CONTINUING)

23 Q. Do you recognize this?

24 A. Yes.

25 Q. And is that the insurance policy referred to a moment

1 ago?

2 MS. MCCONWELL: Your Honor, I would -- I object
3 to it being described or any reference to it until it's been
4 admitted into evidence.

5 THE COURT: Overruled. Go ahead.

6 BY MS. M. MILLER: (CONTINUING)

7 Q. Is that the insurance policy that you referred to a
8 moment ago?

9 A. Yes.

10 Q. And is the aircraft that we just saw the lease for,
11 N369V, included in that insurance policy?

12 A. Yes, it is.

13 Q. And does it cover the time frame that we just saw
14 that was also covered by --

15 MR. MARTIN: Your Honor, I object to her --

16 BY MS. M. MILLER: (CONTINUING)

17 Q. -- the lease for that insurance policy?

18 MR. MARTIN: I -- I object.

19 THE COURT: Okay, I'm sorry --

20 MR. MARTIN: She's going into the substance --

21 THE COURT: -- what's the objection?

22 MR. MARTIN: She's going into the substance of a
23 document that's not been admitted.

24 THE COURT: I thought this was admitted.

25 MS. M. MILLER: I'm laying the found- -- no, it's

1 not admitted yet, Your Honor. 12:39PM

2 THE COURT: Oh. 12:39PM

3 MS. M. MILLER: I'm laying the foundation for it. 12:39PM

4 MR. MARTIN: And we spent hours on insurance 12:39PM

5 documents the last time we were here and none of these were -- 12:39PM

6 MS. M. MILLER: Your Honor, I'm going to ask, 12:39PM

7 Mr. Martin -- 12:39PM

8 THE COURT: Okay, just a minute -- 12:39PM

9 MS. M. MILLER: -- to refrain -- 12:39PM

10 THE COURT: -- just a minute. Okay, I -- hold 12:39PM

11 on. I thought this was already admitted. All right. So 12:39PM

12 the -- the objection will be sustained as to the substance. 12:39PM

13 Move on. If you get it admitted -- 12:40PM

14 MS. M. MILLER: Your Honor, at this time I would 12:40PM

15 offer into evidence Exhibit 92. 12:40PM

16 THE COURT: Okay. 12:40PM

17 MR. MARTIN: Your Honor, I can renew all the 12:40PM

18 objections I had on all the other insurance policies the Court 12:40PM

19 sustained. I mean, they have -- they have nothing to do with 12:40PM

20 the substance of Counts 100 through 110 in this case, Your 12:40PM

21 Honor. 12:40PM

22 MS. M. MILLER: Yes, they do, Your Honor. 12:40PM

23 THE COURT: Okay. Wait, wait, wait. 12:40PM

24 MS. M. MILLER: And would you like me to go -- 12:40PM

25 THE COURT: So -- I'm sorry, so it's -- the 12:40PM

Direct - Khamvongsa

1 objection's irrelevant -- 12:40PM

2 MS. MCCONWELL: It's not relevant. 12:40PM

3 THE COURT: -- to -- to which counts? 12:40PM

4 MR. MARTIN: 100 through -- 12:40PM

5 MS. MCCONWELL: Ninety-nine. 12:40PM

6 MR. MARTIN: -- 99, I guess, through 110, Your 12:40PM

7 Honor -- 12:40PM

8 THE COURT: Okay. 12:40PM

9 MR. MARTIN: -- which is the substance of his 12:40PM

10 testimony. 12:40PM

11 THE COURT: Okay. So to Counts 99 through 110 is 12:40PM

12 irrelevant. Okay, what about any other objections? 12:40PM

13 MS. MCCONWELL: I think hearsay. 12:40PM

14 THE COURT: Okay, hearsay. What else? Anything 12:40PM

15 else? 12:40PM

16 MS. MCCONWELL: I don't -- there hasn't been 12:40PM

17 found -- any foundation for it. 12:40PM

18 THE COURT: Okay. All right. 12:41PM

19 MS. MCCONWELL: Yeah, it's not -- it's -- it's -- 12:41PM

20 and it's not relevant. 12:41PM

21 THE COURT: Okay, I got that. I got irrelevant, 12:41PM

22 hearsay, foundation. Any other objections, Counsels? 12:41PM

23 MS. MCCONWELL: Well, you have my hearsay. 12:41PM

24 THE COURT: I got it. I know the three 12:41PM

25 objections so far. 12:41PM

Direct - Khamvongsa

1 MS. MCCONWELL: And 403. 12:41PM

2 THE COURT: Okay, four objections. 12:41PM

3 MS. MCCONWELL: Well... 12:41PM

4 THE COURT: Is that it, four objections? We'll
5 start with the easiest one -- yeah, anything else? 12:41PM

6 MR. MARTIN: Your Honor, last time we tried -- we 12:41PM
7 went through this whole thing, and the most telling objection 12:41PM
8 was one made by Ms. McConwell when the Court sustained it 12:41PM
9 saying that we've been going over the introduction of these 12:41PM
10 insurance policies -- 12:42PM

11 MS. MCCONWELL: For hours. 12:42PM

12 MR. MARTIN: -- for hours and hours and it was 12:42PM
13 three or four times, and -- and you finally said we're not 12:42PM
14 going to go into that anymore -- 12:42PM

15 THE COURT: Okay, all right. So -- 12:42PM

16 MR. MARTIN: -- and we're doing it again. 12:42PM

17 THE COURT: All right. 12:42PM

18 MR. MARTIN: This is becoming cumulative and 12:42PM
19 repetitive. 12:42PM

20 THE COURT: All right. Oh, okay, so another, 12:42PM
21 five. Let me write it down so I can remember. And repet- -- 12:42PM
22 okay, repetitive. 12:42PM

23 All right. Let's start with the easier one for 12:42PM
24 me -- 12:42PM

25 MS. M. MILLER: Sure. 12:42PM

1 THE COURT: -- foundation. 12:42PM

2 MS. M. MILLER: Yes, Your Honor. So -- 12:42PM

3 THE COURT: Have you laid a foundation that this 12:42PM
4 witness knows this insurance policy? 12:42PM

5 MS. M. MILLER: Yes, Your Honor, and this witness 12:42PM
6 has already testified that this is the insurance policy that 12:42PM
7 he obtained from the tuna boat company that he reviewed. 12:42PM

8 MS. MCCONWELL: Your Honor -- 12:42PM

9 MS. M. MILLER: He also testified -- 12:42PM

10 THE COURT: Okay, so you laid -- you said you've 12:42PM
11 laid foundation. Anything else? 12:42PM

12 MS. M. MILLER: I've laid the foundation, yes, 12:42PM
13 through his testimony that this is the policy that he obtained 12:42PM
14 and he reviewed, and he also already testified that this 12:42PM
15 policy pertains to that aircraft that -- 12:42PM

16 THE COURT: Okay, without getting into the -- 12:42PM

17 MS. M. MILLER: Yeah, no -- 12:42PM

18 THE COURT: -- what it pertains to. 12:42PM

19 MS. M. MILLER: -- he said that aircraft -- 12:42PM

20 THE COURT: He said his knowledge of -- 12:42PM

21 MS. M. MILLER: -- that's in this policy -- 12:42PM

22 THE COURT: All right. 12:42PM

23 MS. M. MILLER: -- and this policy covers the 12:42PM
24 time frame for the lease of this aircraft. 12:42PM

25 THE COURT: All right. 12:42PM

Direct - Khamvongsa

1 MS. M. MILLER: We also saw -- 12:42PM

2 THE COURT: I just want to know -- I just want to 12:43PM

3 know foundation as to know the foundation as to -- 12:43PM

4 MS. M. MILLER: Yes, so we laid -- 12:43PM

5 THE COURT: -- the foundation as to how -- 12:43PM

6 MS. M. MILLER: -- so we laid the foundation -- 12:43PM

7 THE COURT: -- how he can say that this -- 12:43PM

8 that -- how he can bring -- authenticate that this document -- 12:43PM

9 MS. M. MILLER: Yes -- 12:43PM

10 THE COURT: -- is what it says. 12:43PM

11 MS. M. MILLER: -- so he can authenticate it, 12:43PM

12 Your Honor, because; number one, it is a business record, 12:43PM

13 number two -- 12:43PM

14 THE COURT: Okay, so you have -- have you laid 12:43PM

15 the business records exception? 12:43PM

16 MS. M. MILLER: He will be able to -- 12:43PM

17 THE COURT: So go ahead and do that. 12:43PM

18 MS. M. MILLER: -- assert that it's a business -- 12:43PM

19 THE COURT: That's the first objection. 12:43PM

20 MS. M. MILLER: -- record, number one; number two 12:43PM

21 -- 12:43PM

22 THE COURT: Okay. Wait, wait, wait, so lay the 12:43PM

23 foundation now so they can get through that -- I get through 12:43PM

24 that exhibit -- that objection. 12:43PM

25 MS. M. MILLER: Yes. 12:43PM

Direct - Khamvongsa

1 THE COURT: Go ahead. 12:43PM

2 BY MS. M. MILLER: (CONTINUING) 12:43PM

3 Q. Could you please explain to the Court and to the jury 12:43PM

4 exactly how you obtained this record? 12:43PM

5 A. I obtained this record directly from South Pacific 12:43PM

6 Tuna Company, which is identified in the contract. 12:43PM

7 Q. Okay. And -- 12:43PM

8 THE COURT: Which is what, I'm sorry? 12:43PM

9 THE WITNESS: Which is identified in the contract 12:43PM

10 that we just discussed as it relates to N369V. 12:43PM

11 THE COURT: Okay. Go ahead. 12:43PM

12 BY MS. M. MILLER: (CONTINUING) 12:43PM

13 Q. Okay. And how do you know that this is a true and 12:43PM

14 correct copy of the insurance policy that they took out for 12:43PM

15 this particular lease? 12:43PM

16 A. This -- I know based upon my review of this document 12:43PM

17 and the helicopter identified within this document this 12:44PM

18 insurance -- 12:44PM

19 MR. MARTIN: Your Honor, may -- 12:44PM

20 THE WITNESS: -- policy is the same one -- 12:44PM

21 MR. MARTIN: -- may I enter an objection to the 12:44PM

22 question? 12:44PM

23 THE COURT: I'm sorry. 12:44PM

24 MR. MARTIN: May I enter an objection? 12:44PM

25 THE COURT: Yeah. 12:44PM

Direct - Khamvongsa

1 MR. MARTIN: He is not a business records 12:44PM
2 custodian. 12:44PM

3 THE COURT: Well, I'm -- but hold on. They're 12:44PM
4 trying to -- they're trying to -- I'm sorry, she's trying to 12:44PM
5 see if she can get it under the business records exception, so 12:44PM
6 let me hear -- 12:44PM

7 MR. MARTIN: He's not a business records 12:44PM
8 custodian. He's a CID agent with the IRS. He can't 12:44PM
9 qualify -- 12:44PM

10 THE COURT: Okay, well, let -- okay, let her 12:44PM
11 finish her -- try to get it in. And if you're right, then 12:44PM
12 I'll sustain the objection. 12:44PM

13 MS. M. MILLER: And there's also, Your Honor, 12:44PM
14 under 80 -- 12:44PM

15 MR. MARTIN: Let me -- let me -- 12:44PM

16 THE COURT: Okay. 12:44PM

17 MS. M. MILLER: There's also under -- 12:44PM

18 MR. MARTIN: May I briefly respond? 12:44PM

19 THE COURT: Yeah. 12:44PM

20 MS. M. MILLER: We -- 12:44PM

21 THE COURT: Hold on. I just need to get her -- 12:44PM
22 she -- she -- I said lay the foundation. If the prosecutor 12:44PM
23 can lay it, then I'll let it in. If she can't, then it's out 12:44PM
24 on foundation. That's easiest -- 12:44PM

25 MR. MARTIN: I understand. And in that regard, 12:44PM

1 Your Honor, business records custodian would be someone from 12:44PM
2 the company that produced the document that she's trying to 12:44PM
3 introduce. 12:44PM

4 THE COURT: Yeah, I think I know what business 12:44PM
5 records exception is -- 12:44PM

6 MR. MARTIN: And -- and -- 12:44PM

7 THE COURT: -- so okay. Well, we had -- he -- 12:44PM
8 she only just started asking. Let's see what he says. 12:45PM

9 MS. M. MILLER: And in -- 12:45PM

10 THE COURT: So go ahead -- go ahead, continue on. 12:45PM

11 MS. M. MILLER: Well, there's -- there's two 12:45PM
12 things I want to say first before we do this. Number one, the 12:45PM
13 stipulation that the defense entered into with the Government 12:45PM
14 that said it is unnecessary -- 12:45PM

15 MR. MARTIN: No. 12:45PM

16 MS. MCCONWELL: No. 12:45PM

17 MS. M. MILLER: Excuse me. 12:45PM

18 THE COURT: Okay, wait, wait, wait, Counsels -- 12:45PM

19 MS. M. MILLER: That for any -- 12:45PM

20 THE COURT: -- don't interrupt. You don't like 12:45PM
21 her to interrupt you. Go ahead. 12:45PM

22 MS. M. MILLER: Right. Any of the documents that 12:45PM
23 were seized or subpoenaed. If you look at the stipulation, 12:45PM
24 they agree that we did not have to bring in a records 12:45PM
25 custodian for any document that was seized or subpoenaed, and 12:45PM

1 this document was subpoenaed from the tuna boat companies,
2 number one.

3 THE COURT: All right. Okay.

4 MS. M. MILLER: Number two --

5 THE COURT: So, first of all -- so if that's the
6 case, then you don't even have to get into the --

7 MS. M. MILLER: Right.

8 THE COURT: -- foundation.

9 MS. M. MILLER: Right. And that is --

10 THE COURT: So, okay, okay, stop right there.

11 MS. M. MILLER: Okay.

12 THE COURT: Just stop.

13 MS. M. MILLER: Okay.

14 THE COURT: Stipulation, Counsel?

15 MS. MCCONWELL: No, Your Honor, we -- what we
16 stipulated to was what's contained on page -- if you recall,
17 we had this conversation the night before we came to Court.

18 THE COURT: I can barely recall, but go ahead.

19 MS. MCCONWELL: Okay.

20 THE COURT: Barely.

21 MS. MCCONWELL: So -- and we have the records --

22 THE COURT: But I'm pretty sure you're going to
23 remind me.

24 MS. MCCONWELL: -- we have the records custodian
25 which are contained on page 2 of the United States' Amended

1 Witness List, and then we also agreed to the search warrant
2 that was at Hansen Helicopters.

3 THE COURT: Okay.

4 MS. MCCONWELL: And --

5 THE COURT: Okay, the prosecutor has -- okay,
6 let -- okay, hold on. So let me just -- let's pull -- let's
7 pull out the prosecutor's stipulation, and see --

8 MS. M. MILLER: Yes.

9 THE COURT: -- did you agree to this. Hold on,
10 make it easier.

11 MS. M. MILLER: 1516 is the ECF of the
12 stipulation, and it's paragraph 4 --

13 THE COURT: Okay. So --

14 MS. M. MILLER: -- specifically, and paragraph 5.

15 THE COURT: All right. And --

16 MS. M. MILLER: So that's Exhibit 1516 of ECF
17 paragraph 4 and 5. Paragraph 4 says, defendants --

18 MR. MARTIN: You don't need to read.

19 THE COURT: You don't have to say -- you don't
20 have to say what it says.

21 MS. M. MILLER: Okay.

22 THE COURT: Counsel, read it and see if you agree
23 with what the prosecutor just said.

24 MS. MCCONWELL: No, Your Honor, and we addressed
25 this --

1 THE COURT: Okay, I know -- okay -- 12:46PM

2 MS. MCCONWELL: -- on the very first day -- 12:46PM

3 THE COURT: -- even -- 12:46PM

4 MS. MCCONWELL: -- we were here. 12:46PM

5 THE COURT: Let me just ask you, you guys can 12:46PM

6 address a thousand things a thousand times ago -- a thousand 12:46PM

7 years ago. I get that. My question is I'm here right now. 12:47PM

8 Did you all stipulate to this? Did you -- if you -- 12:47PM

9 MS. MCCONWELL: Not to this, no. 12:47PM

10 THE COURT: -- stipulated to this, then we'll 12:47PM

11 discuss it. If you withdrew your stipulation, we'll discuss 12:47PM

12 it. 12:47PM

13 MS. MCCONWELL: We did not stipulate to -- to -- 12:47PM

14 THE COURT: You did not stipulate to -- 12:47PM

15 MS. MCCONWELL: -- to that. 12:47PM

16 THE COURT: But did you review what she just sent 12:47PM

17 you? 12:47PM

18 MS. M. MILLER: No, they're not reviewing it. 12:47PM

19 THE COURT: Okay, wait. 12:47PM

20 MS. MCCONWELL: I'll -- I'll review it. 12:47PM

21 THE COURT: No, no, just review it. You guys 12:47PM

22 have to review it. That's how I'll make my decision. 12:47PM

23 MR. MARTIN: Can we please have the ECF again? 12:47PM

24 THE COURT: What the ECF again? ECC what? 12:47PM

25 MS. M. MILLER: ECF, Your Honor, is 1516 -- 12:47PM

Direct - Khamvongsa

1 THE COURT: Uh-hum. 12:47PM

2 MS. M. MILLER: -- page 2, paragraphs 4 and 5. 12:47PM

3 THE COURT: All right. 12:47PM

4 (Pause.) 12:47PM

5 THE COURT: And did you guys have a chance to 12:48PM

6 review it? Yeah, did you review -- Ms. McConwell, do you 12:48PM

7 agree or disagree? 12:48PM

8 MR. MARTIN: Your Honor, I haven't been -- 12:48PM

9 THE COURT: Oh, you're still reviewing it. 12:48PM

10 MR. MARTIN: I don't have 1516. 12:48PM

11 THE COURT: Could you give them a copy? Could 12:48PM

12 you give them a copy? Sometimes we get -- you know, you 12:48PM

13 got -- you got a million pages -- 12:49PM

14 MS. M. MILLER: It's 1516. 12:49PM

15 THE COURT: --16, page 2 -- 12:49PM

16 MS. M. MILLER: 1516 -- 12:49PM

17 THE COURT: -- paragraph 4 and 5? 12:49PM

18 MS. M. MILLER: Yes. 12:49PM

19 THE COURT: Ms. -- why don't you guys review 12:49PM

20 that. 12:49PM

21 MS. MCCONWELL: And -- and, Your Honor, no, it 12:49PM

22 doesn't -- it doesn't change what my position is. When 12:49PM

23 Ms. Miller and I discussed this the night before I leave at 12:49PM

24 6:00 the next morning, I -- we -- we agreed to was the records 12:49PM

25 custodians that are -- 12:49PM

Direct - Khamvongsa

1 THE COURT: And so it was amended. So, I'm 12:49PM
2 sorry, it might -- 12:49PM

3 MS. MCCONWELL: -- contained on here -- 12:49PM

4 THE COURT: All right. 12:49PM

5 MS. MCCONWELL: -- and -- and what was -- what 12:49PM
6 was got from all of the -- of Hansen Helicopters. We did not 12:49PM
7 agree to a complete free-for-all that anything that they ever 12:49PM
8 got we were going to agree to, and that is why, when we came 12:49PM
9 back to Court and Ms. Miller asked for another stipulation, 12:49PM
10 and I said, no, I cannot do that -- 12:49PM

11 THE COURT: All right. 12:49PM

12 MS. MCCONWELL: -- because you're misrepresenting 12:49PM
13 what we agreed to. 12:49PM

14 THE COURT: Okay. 12:49PM

15 MS. M. MILLER: Your Honor, what we agreed to -- 12:49PM

16 THE COURT: Okay, wait, wait -- 12:49PM

17 MS. M. MILLER: -- is in writing. 12:49PM

18 THE COURT: Okay, you know what, so why don't we 12:49PM
19 do -- 12:49PM

20 MS. M. MILLER: It's in writing. 12:49PM

21 THE COURT: Wait, wait, wait. Why don't we do 12:50PM
22 this, ladies and gentlemen, we'll see you in ten minutes. 12:50PM

23 Please rise for the jury. I don't want to keep 12:50PM
24 cutting off people, I'd rather just kind of get through this. 12:50PM

25 (Jury out at 12:50 p.m.) 12:50PM

1 THE COURT: We're outside the presence of the 12:50PM
2 jury. This is what I want to do. Just let's take -- let's 12:50PM
3 take a five-minute recess and allow Ms. Miller to talk to 12:50PM
4 Ms. Miller, Marie -- not you, Marie, but Miss other Miller, 12:50PM
5 and to go over with your stipulation. Because if it was 12:50PM
6 amended -- let them -- let them try to see if they agree or 12:50PM
7 disagree because I -- because you're, like, in the middle, but 12:50PM
8 they may have had their own deal. And I'm not saying they did 12:50PM
9 or did not. 12:50PM

10 MS. M. MILLER: Right. 12:50PM

11 THE COURT: So let's take five minutes and then 12:50PM
12 we'll come back and talk. 12:50PM

13 MS. M. MILLER: Yes, Your Honor. 12:50PM

14 THE COURT: It makes it easier. 12:50PM

15 MS. M. MILLER: Yes, Your Honor. 12:51PM

16 THE COURT: Because -- because it's true, I did 12:51PM
17 have Ms. McConwell go in and -- and meet with you guys -- 12:51PM

18 MS. M. MILLER: Yes. 12:51PM

19 THE COURT: -- separately. So let's -- 12:51PM

20 MS. M. MILLER: Yes. 12:51PM

21 THE COURT: -- let's just five minutes, okay. 12:51PM

22 MS. M. MILLER: Yes. 12:51PM

23 THE COURT: If it takes ten, that's fine. 12:51PM

24 MS. M. MILLER: Yes, Your Honor. 12:51PM

25 (Recess taken at 12:51 p.m.) 12:51PM

1 (Back on the record at 12:56 p.m.) 12:56PM

2 THE COURT: Okay. We're back on the record 12:56PM
3 outside the presence of the jury. The question is, has there 12:56PM
4 been a stipulation as to specifically this exhibit that's in 12:56PM
5 question, it's a policy -- an insurance policy. 12:56PM

6 Ms. Marie Miller is attempting -- to trying to 12:56PM
7 attempt to get in a foundational colloquy going. The defense 12:56PM
8 Counsel -- and then -- and then Ms. Marie Miller said, look, 12:57PM
9 we don't even have do it this essentially because we have 12:57PM
10 stipulated to the admission without getting a custodian of 12:57PM
11 record. 12:57PM

12 Is that correct, Ms. Marie Miller? 12:57PM

13 MS. M. MILLER: That is correct, Your Honor. And 12:57PM
14 -- 12:57PM

15 THE COURT: Now -- okay, so that's all. I just 12:57PM
16 need to focus -- 12:57PM

17 MS. M. MILLER: Yes. 12:57PM

18 THE COURT: -- streamline this. 12:57PM

19 Ms. McConwell says, and can you -- and my 12:57PM
20 understanding is Ms. McConwell says, no, we never agreed to a 12:57PM
21 -- you guys call it free-for-all, an omnibus-type-of-admission 12:57PM
22 of insurance policies as in this case or documents. And, in 12:57PM
23 fact, we got together and you spoke to Stephanie Miller to go 12:57PM
24 over and -- 12:57PM

25 MS. MCCONWELL: No. 12:57PM

1	THE COURT: I'm sorry, you talked to Marie	12:57PM
2	Miller? You talked to who?	12:57PM
3	MS. M. MILLER: I met with --	12:57PM
4	THE COURT: I'm sorry, wait, wait, wait --	12:57PM
5	MS. M. MILLER: -- Ms. Laura McConwell.	12:57PM
6	THE COURT: Hold on, hold on, no, no, no. I --	12:57PM
7	let me -- let me talk to Marie -- I mean let me talk to	12:57PM
8	Ms. McConwell. You spoke to who?	12:57PM
9	MS. M. MILLER: Me.	12:58PM
10	MS. MCCONWELL: Ms. Marie Miller and I had a	12:58PM
11	conversation --	12:58PM
12	THE COURT: Okay.	12:58PM
13	MS. MCCONWELL: -- late on a Tuesday or --	
14	COURT REPORTER: I'm sorry, ma'am, can you get on	
15	the microphone, please.	
16	THE COURT: Can you get on a mic --	
17	COURT REPORTER: I can't hear you.	
18	THE COURT: Can you get on a mic because the	12:58PM
19	court reporter.	12:58PM
20	MS. MCCONWELL: Ms. Marie Miller and I had a	12:58PM
21	telephone conversation late in the evening I believe on a	12:58PM
22	Tuesday evening before we were -- at the Court's direction	12:58PM
23	before we were coming back.	12:58PM
24	THE COURT: Okay.	12:58PM
25	MS. MCCONWELL: Okay?	12:58PM

Direct - Khamvongsa

1 THE COURT: And? 12:58PM

2 MS. MCCONWELL: And so what we agreed to was she 12:58PM
3 wasn't going to need to call these records custodians -- 12:58PM

4 THE COURT: Right. 12:58PM

5 MS. MCCONWELL: -- which are on page 2 of their 12:58PM
6 amended witness list, and they weren't -- and they weren't 12:58PM
7 going to need to call a custodian on the FBI search warrant 12:58PM
8 documents from my client. 12:58PM

9 THE COURT: All right. 12:58PM

10 MS. MCCONWELL: And I think also the documents 12:58PM
11 that -- that came from Hansen via the -- the -- I think the 12:58PM
12 subpoena. 12:58PM

13 THE COURT: And you guys put that in writing? 12:58PM

14 MS. MCCONWELL: Well, we didn't put it in 12:58PM
15 writing. Ms. Miller said she would go ahead and file a 12:58PM
16 stipulation, which she did. 12:58PM

17 THE COURT: Okay. 12:58PM

18 MS. MCCONWELL: And then you adopted it. When we 12:58PM
19 got to Court -- 12:58PM

20 THE COURT: Right. 12:58PM

21 MS. MCCONWELL: -- in May, I did bring it up that 12:58PM
22 we didn't -- that's -- that's much broader than what we had 12:59PM
23 agreed to. What we agreed to is what I just represented to 12:59PM
24 you, and that's what we've been operating under through the 12:59PM
25 rest of Court. No, I did not file a separate motion because 12:59PM

1 we had -- as I understood it, had -- had cleared that up -- 12:59PM

2 THE COURT: With the Court, with me -- 12:59PM

3 MS. MCCONWELL: Yes, with you -- 12:59PM

4 THE COURT: -- some time ago. 12:59PM

5 MS. MCCONWELL: -- when we were right back -- 12:59PM

6 right back -- when we were back that week of, what, May 9th, 12:59PM

7 or whatever week we were here. 12:59PM

8 THE COURT: Uh-huh. Was this the last week 12:59PM

9 before we adjourned? 12:59PM

10 MS. MCCONWELL: No, that was first week we came 12:59PM

11 back. 12:59PM

12 THE COURT: Okay. 12:59PM

13 MS. MCCONWELL: Now, on June 8th, which was our 12:59PM

14 last trial date -- 12:59PM

15 THE COURT: Yeah. 12:59PM

16 MS. MCCONWELL: -- then we did spend several 12:59PM

17 hours outside the presence of the jury where Ms. Samantha 12:59PM

18 Miller was attempting to get in Exhibit 102, which is another 12:59PM

19 issue insurance policy -- 12:59PM

20 THE COURT: Right. 12:59PM

21 MS. MCCONWELL: -- and was -- the Court ruled 12:59PM

22 that wasn't coming in -- 12:59PM

23 THE COURT: I remember that. 12:59PM

24 MS. MCCONWELL: -- as with this one -- 12:59PM

25 THE COURT: Okay. That's what -- 12:59PM

Direct - Khamvongsa

1 MS. MCCONWELL: -- and they don't -- 12:59PM
2 THE COURT: -- I thought it -- 12:59PM
3 MS. MCCONWELL: -- have -- yeah. 12:59PM
4 THE COURT: All right, okay -- 12:59PM
5 MS. M. MILLER: Your ruling at that time -- 12:59PM
6 THE COURT: Wait, wait -- 12:59PM
7 MS. M. MILLER: -- was not based on a lack of 01:00PM
8 foundation. Your ruling at that time, if we look at the 01:00PM
9 record, was based on their arguments that it wasn't relevant. 01:00PM
10 That was your ruling at the time. 01:00PM
11 THE COURT: Okay, okay, putting that aside -- 01:00PM
12 okay, but that's -- that's not really my -- my focus. Right 01:00PM
13 now my focus is this particular exhibit number and it is -- 01:00PM
14 MS. MCCONWELL: 92. 01:00PM
15 MS. M. MILLER: 92. 01:00PM
16 THE COURT: -- Exhibit 92. 01:00PM
17 MS. M. MILLER: Yes. 01:00PM
18 THE COURT: All right. So Exhibit 92. 01:00PM
19 MS. M. MILLER: Yes. 01:00PM
20 THE COURT: And your -- your argument is that 01:00PM
21 you've never agreed to the admission. Ms. McConwell, there is 01:00PM
22 no documentation that shows that you have agreed to the 01:00PM
23 admission of this exhibit, this insurance to policy. 01:00PM
24 MS. MCCONWELL: That's correct. 01:00PM
25 THE COURT: That's all I care about right now. 01:00PM

Direct - Khamvongsa

1 MS. MCCONWELL: That is correct. 01:00PM

2 THE COURT: You never admit -- admitted -- agreed 01:00PM

3 to that. And you said -- 01:00PM

4 MS. M. MILLER: And this is the documentation 01:00PM

5 that proves it. I sent this stipulation to Ms. McConwell and 01:00PM

6 Mr. Martin and Mr. McConwell and Mr. Han. The paragraph -- 01:00PM

7 THE COURT: And they signed it? 01:00PM

8 MS. M. MILLER: And they signed off on it and 01:00PM

9 this Judge, you, granted this. And it says in paragraph 4 and 01:00PM

10 5 -- now they're saying, well, we didn't really mean it to be 01:01PM

11 so broad. I call BS on that, Your Honor, because when 01:01PM

12 you look at paragraph -- 01:01PM

13 THE COURT: Okay, as long as you sign -- okay, 01:01PM

14 wait, wait, wait. So you signed it. 01:01PM

15 MS. M. MILLER: Yes. 01:01PM

16 THE COURT: That's all I care about. All right. 01:01PM

17 MS. M. MILLER: Yes, they did. 01:01PM

18 MS. MCCONWELL: No, we did not sign it. 01:01PM

19 THE COURT: All right. 01:01PM

20 MS. M. MILLER: And paragraph 4 says -- 01:01PM

21 THE COURT: Wait, wait. Did they sign it? 01:01PM

22 MS. M. MILLER: They did agree -- it's a joint 01:01PM

23 stipulation that we filed. And, yes, here we go, page 2 of 01:01PM

24 the joint stipulation filed by Laura McConwell, Edward 01:01PM

25 McConwell, Mack Martin, Edward Han. 01:01PM

Direct - Khamvongsa

1 THE COURT: Right. So my --

01:01PM

2 MS. M. MILLER: All of us filed this. All of us
3 filed this. And from May 5th, at the time that we filed this,
4 until today, from the time you entered an order granting
5 paragraphs 4 and 5 and 6 of this stipulation, the defendants
6 have never moved to say, Your Honor, we didn't mean to file
7 paragraph 4, which says that they stipulate --

01:01PM

01:01PM

01:01PM

01:01PM

01:01PM

01:01PM

8 THE COURT: I got it. I got it.

01:01PM

9 MS. M. MILLER: -- to the authenticity and the
10 chain of custody of all --

01:01PM

01:01PM

11 THE COURT: All right.

01:01PM

12 MS. M. MILLER: -- all records.

01:02PM

13 THE COURT: All right.

01:02PM

14 MS. M. MILLER: Now they don't want this policy
15 in, so all of a sudden there's a limitation.

01:02PM

01:02PM

16 THE COURT: Well, no, no, no, the -- I guess the
17 question is, did they file it? They signed it and filed it,
18 you said yes.

01:02PM

01:02PM

01:02PM

19 MS. M. MILLER: They did.

01:02PM

20 THE COURT: And you said what, Ms. McConwell?

01:02PM

21 MS. MCCONWELL: I'm saying no, and if I have to
22 go get my airline tickets to show I was on a plane, Ms. Miller
23 prepared it, Ms. Miller filed it.

01:02PM

01:02PM

01:02PM

24 MS. M. MILLER: Here's the e-mail from you
25 confirming yes, file it. Do I need to show --

01:02PM

01:02PM

Direct - Khamvongsa

1 MS. MCCONWELL: That you -- 01:02PM
2 MS. M. MILLER: -- that to the judge. 01:02PM
3 MS. MCCONWELL: You told me you were going to 01:02PM
4 prepare one and file it and I said that's -- 01:02PM
5 MS. M. MILLER: I sent it to you, Laura. 01:02PM
6 MS. MCCONWELL: -- great. 01:02PM
7 MS. M. MILLER: I didn't say I'm going to prepare 01:02PM
8 one. I sent you this. I sent you this. 01:02PM
9 THE COURT: All right. My question -- 01:02PM
10 MS. M. MILLER: You approved it. 01:02PM
11 THE COURT: Okay, my question is -- 01:02PM
12 MS. MCCONWELL: Well -- 01:02PM
13 THE COURT: Wait, hold on, hold on. 01:02PM
14 MS. M. MILLER: Well what? 01:02PM
15 THE COURT: No, because you both are 01:02PM
16 professionals, let's calm down. We got -- we just got to get 01:02PM
17 to the bottom of this. 01:02PM
18 MS. M. MILLER: I'm just going to find the 01:02PM
19 e-mail -- 01:02PM
20 THE COURT: Now the question. 01:02PM
21 MS. M. MILLER: -- now because apparently that's 01:02PM
22 what we need to do. 01:02PM
23 THE COURT: Well, even if you got the e-mail, the 01:02PM
24 question is, did you sign the stipulation. 01:02PM
25 MS. M. MILLER: Yes. 01:02PM

Direct - Khamvongsa

1 THE COURT: Wait, you did. You did, Ms. Marie. 01:02PM
2 Everybody, your signatures are on -- is everybody's signature 01:02PM
3 on the stipulation? 01:02PM
4 MS. MCCONWELL: Well, she put an e-signature -- 01:02PM
5 everybody's e-signature on it. 01:02PM
6 THE COURT: All right. Did she get your -- 01:02PM
7 MS. M. MILLER: Which she approved. 01:03PM
8 THE COURT: -- permission to get an e-signature? 01:03PM
9 MS. M. MILLER: Yes, she did. 01:03PM
10 MS. MCCONWELL: Well, I'm going to have to -- 01:03PM
11 THE COURT: Let her speak. 01:03PM
12 MS. MCCONWELL: I'm going to have to pull up and 01:03PM
13 look at the e-mails. I do not recall -- 01:03PM
14 MS. M. MILLER: Oh -- 01:03PM
15 THE COURT: Okay, why don't we come back to 01:03PM
16 this -- hold on -- because this -- this is a foundational 01:03PM
17 question. Okay, putting that aside, even if you don't 01:03PM
18 agree -- hold on. Even if -- even if -- even if I can't make 01:03PM
19 a decision on -- on that, the question is can she lay a 01:03PM
20 foundation with this witness. So let's just get the -- oh, 01:03PM
21 he's gone. Well, okay, we -- we just got to get -- can he -- 01:03PM
22 can she pull it out and make the -- make it so -- 01:03PM
23 MS. M. MILLER: And let me address that, Your 01:03PM
24 Honor. So, first, when you look at the exception 803(6) for a 01:03PM
25 business records -- 01:03PM

Direct - Khamvongsa

1	THE COURT: Okay, go ahead.	01:03PM
2	MS. M. MILLER: -- the business records --	01:03PM
3	THE COURT: No, you don't have to read it. Just	01:03PM
4	tell me the -- I got it.	01:03PM
5	MS. M. MILLER: So 803(6) is one way in which it	01:03PM
6	comes in, because Special Agent Khamvongsa is able to lay the	01:03PM
7	foundation for all of the requirements under --	01:03PM
8	THE COURT: Okay, as long -- if he could do that,	01:03PM
9	then you -- you may get it in under that basis.	01:03PM
10	MS. M. MILLER: And I'm trying to --	01:03PM
11	THE COURT: So you're trying to do it.	01:03PM
12	MS. M. MILLER: And I have another argument about	01:03PM
13	it, Your Honor, besides 803(6). In addition, there is a	01:04PM
14	catch-all provision under the Federal Rules of Evidence for	01:04PM
15	the veracity of a document, whether it fits within a	01:04PM
16	particular exception or not --	01:04PM
17	THE COURT: Okay, what -- just what is it?	01:04PM
18	MS. M. MILLER: That is 803 --	01:04PM
19	THE COURT: Just tell me what it is.	01:04PM
20	MS. M. MILLER: Yes, Your Honor.	01:04PM
21	THE COURT: Don't -- don't read it, because I can	01:04PM
22	read myself.	01:04PM
23	MS. M. MILLER: Yes, Your Honor.	01:04PM
24	THE COURT: 803 --	01:04PM
25	MS. M. MILLER: 807.	01:04PM

Direct - Khamvongsa

1	THE COURT: All right. Let me just look at 807	01:04PM
2	for a minute.	01:04PM
3	MS. M. MILLER: Yes, Your Honor.	01:04PM
4	THE COURT: All right. She has not been able to	01:04PM
5	try to get through the foundation because you guys are	01:04PM
6	objecting.	01:04PM
7	MS. M. MILLER: Right.	01:04PM
8	THE COURT: So if -- if the prosecutor can get	01:04PM
9	through 80 -- 803(6) through colloquy, then the Court may	01:04PM
10	allow it. So 807, in the alternative narrative, she's asking	01:04PM
11	me to look at 807.	01:04PM
12	MS. M. MILLER: Yes, Your Honor.	01:04PM
13	THE COURT: Let me look at that really quick,	01:04PM
14	residual exception.	01:04PM
15	MS. M. MILLER: Yes, Your Honor.	01:04PM
16	THE COURT: All right. So she can try to bring	01:04PM
17	it in under 807. All right. So --	01:05PM
18	MS. M. MILLER: Yes, and then I have a third	01:05PM
19	argument --	01:05PM
20	THE COURT: Okay, so --	01:05PM
21	MS. M. MILLER: -- Your Honor.	01:05PM
22	THE COURT: Okay, wait a minute.	01:05PM
23	MS. M. MILLER: The third argument is --	01:05PM
24	THE COURT: Yeah.	01:05PM
25	MS. M. MILLER: -- it's not being offered for the	01:05PM

Direct - Khamvongsa

1 truth of the matter asserted. It's being offered to show that
2 the tuna boat companies relied on the representations of Jon
3 Walker in these leases that the helicopters were in fact
4 properly registered, airworthy, and that the airman were in
5 fact qualified by the FAA.

6 And I want this to be on the record, Your Honor,
7 because it becomes extremely important. This is a conspiracy
8 to commit wire fraud count. The reason why they're objecting
9 so vehemently to the introduction of this insurance policy is
10 it shows --

11 THE COURT: All right.

12 MS. M. MILLER: -- that the state of mind of the
13 tuna boat companies was that they were getting a helicopter
14 that was registered with the FAA properly by the owner, number
15 one; number two, that the helicopter was airworthy according
16 to the FAA; and, number three, that the airmen were in fact
17 FAA certified.

18 The words FAA appear in this Document 50 times in
19 11 pages, that's why they don't want it in --

20 THE COURT: All right.

21 MS. M. MILLER: -- because it clearly shows that
22 reliance by the tuna boat companies on their
23 misrepresentations. So I would argue that it's not even
24 hearsay because I want to bring it in to show the state of
25 mind of the tuna boat companies who are the victims of the

1 conspiracy to commit wire fraud.

01:06PM

2 THE COURT: Got it. Okay.

01:06PM

3 MR. MARTIN: Your Honor --

01:06PM

4 THE COURT: Yeah.

01:06PM

5 MR. MARTIN: -- Mr. -- Agent Khamvongsa is not an
6 individual that could testify --

01:06PM

01:06PM

7 THE COURT: Okay, let's get him on the stand.

01:06PM

8 Let's just -- outside the presence of the jury, let's just do

01:06PM

9 it. Let's just see if he can --

01:06PM

10 MR. MARTIN: He can't testify as to state of mind
11 of a tuna boat owners.

01:06PM

01:06PM

12 THE COURT: All right, that's -- that's --

01:06PM

13 MR. MARTIN: They need a tuna boat owner to
14 testify to that.

01:06PM

01:06PM

15 THE COURT: Okay, let's go -- let's just go --

01:06PM

16 let's see if he can do -- get through the foundation first.

01:06PM

17 Let's see if he can get through the -- if they can get

01:06PM

18 through 803(6) and 807. Okay, and then -- then we could talk

01:06PM

19 about the state of mind later.

01:06PM

20 MR. MARTIN: All right.

01:06PM

21 MS. M. MILLER: And then, Your Honor, I also have
22 for the Court's record the e-mail that went to Ms. McConwell.

01:06PM

01:06PM

23 THE COURT: Okay, we'll -- we'll look at that --

01:06PM

24 we'll look at that later. Let's just try and see --

01:06PM

25 MS. M. MILLER: Okay.

01:06PM

Direct - Khamvongsa

1 THE COURT: We'll -- we'll come to that later. 01:07PM
2 Let's -- because that could -- let's -- let's see if he could 01:07PM
3 get through this. This might -- this might be easier. 01:07PM
4 MS. M. MILLER: Well, it may be easier, but I 01:07PM
5 also want it on the record -- 01:07PM
6 THE COURT: Okay, you put it on the record. 01:07PM
7 MS. M. MILLER: -- that she had the 01:07PM
8 stipulation -- 01:07PM
9 THE COURT: All right. 01:07PM
10 MS. M. MILLER: -- when she approved filing it 01:07PM
11 with the Court. 01:07PM
12 THE COURT: All right. So you could show that to 01:07PM
13 her later. Go ahead. 80 -- go ahead, 803-6. 01:07PM
14 MS. M. MILLER: Yes. 01:07PM
15 BY MS. M. MILLER: (CONTINUING) 01:07PM
16 Q. Special Agent Khamvongsa, could you, please, tell the 01:07PM
17 Court whether this particular record is a record that the tuna 01:07PM
18 boat company would normally maintain? 01:07PM
19 A. Yes. 01:07PM
20 MR. MARTIN: Objection; speculation. 01:07PM
21 THE COURT: Okay, how does he know that? 01:07PM
22 MS. M. MILLER: Yes. 01:07PM
23 BY MS. M. MILLER: (CONTINUING) 01:07PM
24 Q. How do you know that, sir? 01:07PM
25 A. I know that because the tuna boat company 01:07PM

Direct - Khamvongsa

1 representative told me this is their record --

01:07PM

2 MR. MARTIN: Objection; hearsay.

01:07PM

3 THE WITNESS: -- and they provided it to me --

01:07PM

4 MR. MARTIN: Objection; hearsay.

01:07PM

5 THE WITNESS: -- directly.

01:07PM

6 THE COURT: Okay. Hearsay?

01:07PM

7 MS. M. MILLER: Your Honor, it's not hearsay
8 because, again, it is not being offered for the truth of the
9 matter asserted.

01:07PM

01:07PM

01:07PM

10 MR. MARTIN: What the tuna boat owner said to him
11 is not the --

01:07PM

01:07PM

12 MS. M. MILLER: The tuna boat company gave him a
13 lease. The lease itself -- not the lease, the insurance
14 policy. If you look at the insurance policy itself, the
15 insurance policy --

01:07PM

01:07PM

01:07PM

01:08PM

16 Can we pull that back up on the screen so the
17 Court can see it, please?

01:08PM

01:08PM

18 MR. MARTIN: Your Honor, my objection was he was
19 testifying to hearsay, not -- not what the policy --

01:08PM

01:08PM

20 MS. M. MILLER: He subpoenaed from the tuna boat
21 company their insurance --

01:08PM

01:08PM

22 THE COURT: All right, just ask the question --

01:08PM

23 MS. M. MILLER: -- policy.

01:08PM

24 THE COURT: The objection -- okay, the Court --
25 let me just -- let's clarify this. Go back to the question.

01:08PM

01:08PM

Direct - Khamvongsa

1 MS. M. MILLER: Yes.

01:08PM

2 BY MS. M. MILLER: (CONTINUING)

01:08PM

3 Q. How do you know that this particular insurance
4 policy, which you obtained from the tuna boat company, is in
5 fact a business record of the tuna boat company consistent
6 with the federal rules?

01:08PM

01:08PM

01:08PM

01:08PM

7 MR. MARTIN: Objection; speculation.

01:08PM

8 BY MS. M. MILLER: (CONTINUING)

01:08PM

9 Q. How do you know?

01:08PM

10 THE COURT: Overruled.

01:08PM

11 MS. M. MILLER: Let's hear what he has --

01:08PM

12 THE COURT: Overruled.

01:08PM

13 MS. M. MILLER: -- to say about --

01:08PM

14 THE COURT: How do you know -- how do you know
15 that?

01:08PM

16 BY MS. M. MILLER: (CONTINUING)

01:08PM

17 Q. How do you know?

01:08PM

18 A. It was provided directly -- directly to me from the
19 owner of that -- that contractor -- insurance, and that is
20 South Pacific Tuna Company which oversees the tuna boat
21 vessels.

01:08PM

01:08PM

01:08PM

01:08PM

22 Q. And now --

01:08PM

23 THE COURT: Somebody gave it to you and you
24 believed that that's what it is; that's what you're saying?

01:08PM

01:08PM

25 THE WITNESS: Yes.

01:08PM

Direct - Khamvongsa

1 THE COURT: Okay. Next question.

01:08PM

2 BY MS. M. MILLER: (CONTINUING)

01:08PM

3 Q. Yes.

01:08PM

4 And when you received it, did you review the entire
5 insurance policy carefully?

01:08PM

01:08PM

6 A. Yes.

01:09PM

7 Q. Did you ensure that the policy itself matched up with
8 the evidence in this case in terms of the aircraft that was
9 identified in the policy?

01:09PM

01:09PM

01:09PM

10 A. Yes.

01:09PM

11 Q. The lease term that was identified in the policy?

01:09PM

12 A. Yes.

01:09PM

13 Q. The boat that was being used to lease that in the
14 policy?

01:09PM

01:09PM

15 A. Yes.

01:09PM

16 Q. Was there anything in that policy or in that document
17 that made you question the authenticity or veracity of the
18 information contained in the insurance policy?

01:09PM

01:09PM

01:09PM

19 A. No.

01:09PM

20 MS. M. MILLER: Your Honor, under 807, the
21 residual exception, this clearly comes in. It also goes to
22 the weight, not the admissibility --

01:09PM

01:09PM

01:09PM

23 MR. MARTIN: May I voir dire the witness, Your
24 Honor?

01:09PM

01:09PM

25 THE COURT: Okay, hold on. Okay, you're --

01:09PM

1 you're bringing it under 807. 01:09PM

2 MS. M. MILLER: Yes. 01:09PM

3 THE COURT: All right, so I got it. 01:09PM

4 All right, so -- 01:09PM

5 MR. MARTIN: May I voir dire? 01:09PM

6 THE COURT: -- yes, well, you may. 01:09PM

7 01:09PM

8 VOIR DIRE 01:09PM

9 BY MR. MARTIN: 01:09PM

10 Q. Agent Khamvongsa, who gave you this document, the 01:09PM

11 name of the person? 01:09PM

12 A. Dan Hoff of -- or Keith Solar of South Pacific Tuna 01:09PM

13 Company. 01:10PM

14 Q. What is his title? 01:10PM

15 A. He is the legal counsel that was obtained from -- 01:10PM

16 that -- that's for South Pacific Tuna Company. 01:10PM

17 Q. He's a lawyer? 01:10PM

18 A. Yes. 01:10PM

19 Q. Does he work for the company? 01:10PM

20 A. He worked -- as far as I know, he works for the 01:10PM

21 company. 01:10PM

22 Q. All right. Is he an employee of the company? 01:10PM

23 A. I don't know. I just know that he represents the 01:10PM

24 company. 01:10PM

25 Q. Does he -- is it his job to keep the records of the 01:10PM

Direct - Khamvongsa

1 company?

01:10PM

2 A. Again, he's a representative of the company and he
3 represented the --

01:10PM

01:10PM

4 Q. Is it his job to keep the records of the company?

01:10PM

5 A. He --

01:10PM

6 Q. Do you understand the question?

01:10PM

7 A. He was representing the individuals involved with
8 providing the records.

01:10PM

01:10PM

9 Q. I'm talking about his job. I'm talking about his
10 responsibility. Is it his responsibility to keep the records
11 of the company?

01:10PM

01:10PM

01:10PM

12 A. Yes.

01:10PM

13 Q. Okay. And so where does he store all these records
14 he keeps of the company?

01:10PM

01:11PM

15 A. At the company facility.

01:11PM

16 Q. Does he work at the company facility or is he a
17 private lawyer?

01:11PM

01:11PM

18 A. I do not know. I don't know as it relates to that
19 question.

01:11PM

01:11PM

20 Q. Okay. Well, is it his job to keep the records of the
21 company?

01:11PM

01:11PM

22 A. He is representing -- he's a representative of the
23 company.

01:11PM

01:11PM

24 Q. I understand you said he's a representative of the
25 company.

01:11PM

01:11PM

Direct - Khamvongsa

1 A. And he represented that these --

2 Q. I understand that he's a representative --

3 A. -- are true and create documents from the company.

4 Q. May I ask the question, sir?

5 A. Yes, sir.

6 THE COURT: You know, just -- okay, answer the
7 specific question. Okay. Go ahead, what's the question?

8 BY MS. M. MILLER: (CONTINUING)

9 Q. They have people at the company whose job it is to
10 keep the records of the company, do they not, sir?

11 A. Yes, absolutely.

12 Q. And who are those people?

13 A. The chief financial officer who provided the records
14 through --

15 Q. Who is that person, was my question, sir.

16 A. The name escapes me at the moment. But --

17 Q. Okay. And he would be the person then that would
18 come to the courtroom and show -- tell us that these records
19 are kept in the normal course of business if they are kept in
20 the normal course of business. Would you agree with that,
21 sir?

22 A. He represents the company. He's one of the many that
23 could testify to that.

24 Q. Okay. And you don't work for the company?

25 A. I don't work for the company, but the records were

1 provided --

01:12PM

2 Q. No, you don't --

01:12PM

3 A. -- from the company.

01:12PM

4 Q. -- work for the company; correct?

01:12PM

5 A. No, I do not. I work for the government.

01:12PM

6 Q. I -- that's -- all right.

01:12PM

7 And it's not your job to maintain these records in a
8 normal course of business, is it, sir?

01:12PM

9 A. (Pause.)

01:12PM

10 Q. That's a simple question.

01:12PM

11 A. It's my job to review business records.

01:12PM

12 Q. Okay. Is it your job to maintain the records of this
13 tuna boat company in the normal course of your business, sir?

01:12PM

14 A. After it's been provided to me from a business as a
15 result from a subpoena, yes.

01:12PM

16 Q. No, I -- my question is, in your day-to-day
17 operations, do you maintain the records of this tuna boat
18 company?

01:12PM

19 A. Again, if it's provided to me through a subpoena, I
20 do maintain it after it's been provided to me. If I'm
21 misunderstanding --

01:13PM

22 Q. Before it's --

01:13PM

23 A. -- your question --

01:13PM

24 Q. -- provided to you, sir, before anything is provided
25 to you, is it your job to maintain the records of this tuna

01:13PM

Direct - Khamvongsa

1 boat company?

01:13PM

2 A. No.

01:13PM

3 Q. Okay. And... (pause.)

01:13PM

4 You know whether or not -- as far as the keeping and
5 maintaining of these records and the practice of keeping and
6 maintaining these records, is that your job before they were
7 given to you, sir?

01:13PM

01:13PM

01:13PM

01:13PM

8 A. It's the job of the custodian of records for the
9 business itself.

01:14PM

01:14PM

10 Q. Okay. And you would agree with me, you are not the
11 custodian of records for the tuna boat company; isn't that
12 true, sir?

01:14PM

01:14PM

01:14PM

13 A. I am not the custodian of records for the South
14 Pacific Tuna Company.

01:14PM

01:14PM

15 Q. Okay. And --

01:14PM

16 MR. MARTIN: Your Honor, that concludes my voir
17 dire --

01:14PM

01:14PM

18 THE COURT: Okay.

01:14PM

19 MR. MARTIN: -- and my argument is he's not the
20 custodian of records --

01:14PM

01:14PM

21 THE COURT: All right.

01:14PM

22 MR. MARTIN: -- for the tuna boat company.

01:14PM

23 THE COURT: So as of -- as of right now, I would
24 agree with you, but let's see if the prosecutor can --

01:14PM

01:14PM

25 MS. M. MILLER: Yes, Your Honor.

01:14PM

Direct - Khamvongsa

1 THE COURT: Go ahead. 01:14PM

2 MS. M. MILLER: So two things. Number one, the 01:14PM
3 stipulation, I do have the e-mail that went to Laura 01:14PM
4 McConwell -- 01:14PM

5 THE COURT: Okay. 01:14PM

6 MS. M. MILLER: -- with the attached stipulation 01:14PM
7 that was filed with the Court, and I have her e-mail returning 01:14PM
8 to me saying we agree with these stipulations, you are 01:14PM
9 approved to file it. And I am going to e-mail that -- I'm 01:14PM
10 going to instruct Mr. Leon Guerrero to, please, e-mail that to 01:14PM
11 the Court because of the representation that was made -- 01:14PM

12 THE COURT: And also -- 01:14PM

13 MS. M. MILLER: -- by Ms. McConwell -- 01:15PM

14 THE COURT: Okay. And let me -- 01:15PM

15 MS. M. MILLER: -- that is inaccurate. 01:15PM

16 THE COURT: -- receive a copy of that too. 01:15PM

17 MS. M. MILLER: So that is -- yes, can you, 01:15PM
18 please, e-mail that to the Court right now. 01:15PM

19 THE COURT: Yeah, but also -- 01:15PM

20 MS. M. MILLER: As well, number two -- 01:15PM

21 THE COURT: -- e-mail it to Ms. McConwell -- 01:15PM

22 MS. M. MILLER: Yes, and e-mail it back to her. 01:15PM

23 THE COURT: -- and Mr. Martin. Go ahead. 01:15PM

24 MS. M. MILLER: Number two, Your Honor, is, under 01:15PM
25 807, the residual exception to the hearsay rule, 807 01:15PM

1 specifically says that a hearsay statement, if the Court
2 rules, first of all, that this is a hearsay statement, is not
3 excluded by the rule against hearsay even if the statement is
4 not admissible under any hearsay exception if the statement is
5 supported by sufficient guarantees of trustworthiness.

6 We heard this agent testify that he subpoenaed
7 the records from the tuna boat company and that the tuna boat
8 company put him in charge with their -- put him in contact
9 with their attorney who produced these insurance policies to
10 him that aligned with the leases that have already been
11 entered into evidence in this case. So there is no question
12 about that. The policies themselves align with the leases.
13 They align with the N number of the helicopters that were
14 owned by Hansen Helicopters and Jon Walker. They align with
15 the leases that were entered into. They identify the tuna
16 boat companies.

17 And the second part of 807 says, that if this
18 evidence is more probative on the point for which it is
19 offered than any other evidence, that the proponent can obtain
20 through reasonable efforts, then it may be admitted. Now,
21 we've already discussed why this evidence is so probative.
22 The defense are the ones who opened the door arguing, even
23 though the jury instructions for conspiracy to commit wire
24 fraud do not require that we prove that the tuna boat
25 companies suffered a financial loss, the defendants have been

Direct - Khamvongsa

1 arguing, well, isn't it true the insurance boat companies
2 haven't suffered a loss.

3 This evidence shows that the tuna boat companies
4 paid \$30,000 a year for additional insurance on these
5 helicopters and on the airmen that the defendants were
6 producing to them, and that the insurance policy itself says
7 if these helicopters do not comply with the FAA rules, if the
8 helicopters are not airworthy under the FAA rules, and if the
9 airmen are not certified by the FAA, then there's no coverage.

10 Why would the tuna boat companies pay \$30,000 a
11 year for that insurance if they didn't believe the defendants'
12 own representations that they were getting airworthy, FAA
13 registered, properly-owned aircraft with airmen who were
14 qualified by the FAA?

15 It absolutely refutes that argument, and it is
16 more probative than any other evidence that we have.

17 And I would argue, Your Honor, in terms of
18 notice, look at the number of this exhibit. It is Exhibit
19 No. 92. The defendants have had this since our first witness
20 list was sent to them more than two years ago. We immediately
21 disclosed it.

22 And I would go back to the stipulation for the
23 admissibility of any records that were either subpoenaed or
24 obtained through the search warrant, and the defendants agreed
25 that no records custodians would be required.

Direct - Khamvongsa

1 This is a damning piece of evidence. So to say 01:18PM

2 -- 01:18PM

3 THE COURT: All right, I got it, I got it. I got 01:18PM

4 your argument. 01:18PM

5 All right. So the first question is, did you all 01:18PM

6 want to review the e-mail Ms. McConwell? 01:18PM

7 MR. GUERRERO: It was just sent, Your Honor, so 01:18PM

8 they should be -- 01:18PM

9 MS. MCCONWELL: No, Your Honor, we went -- we 01:18PM

10 went -- had gone -- we went back and forth, and what -- and -- 01:18PM

11 and it was late at night before I'm leaving the next day. And 01:18PM

12 what we agreed to and what I understood we agreed to, and 01:18PM

13 clearly we should have asked more questions, is the records 01:18PM

14 custodians. The only records custodians I'm aware of at the 01:18PM

15 time I'm having the conversation is what was on page 2 of 01:18PM

16 their witness list, which are nine custodians of -- for 01:18PM

17 records. And we've been talking to the bank custodians. 01:18PM

18 We've been talking about the medical custodians. And I'm, 01:19PM

19 like, no, you don't need those custodians. Those are the 01:19PM

20 records custodians that we agreed to. 01:19PM

21 THE COURT: Okay. 01:19PM

22 MS. MCCONWELL: With regard to what was -- the 01:19PM

23 search warrant and the subpoenas, they -- they execute search 01:19PM

24 warrants on Hansen Helicopters and subpoenas on Hansen 01:19PM

25 Helicopters. Those are the search warrants and those subpoena 01:19PM

1 I -- I -- I am talking about. And so at no time did I -- did
2 I anticipate that it means the universe of any subpoena that
3 they'd ever issued was going to be in -- was going to be
4 included in that stipulation.

5 THE COURT: All right.

6 MS. MCCONWELL: And then we didn't agree that
7 things were just going to automatically be admitted. The
8 things that we did agree to where they didn't need to have the
9 records custodian was authenticity, so they didn't have to
10 have that records custodian. We didn't agree that something
11 just gets to be admitted.

12 THE COURT: All right, but okay, so let me just
13 say I believe you. But my question is, on this e-mail, was
14 there, like, further conversations between you and Ms. Marie
15 Miller --

16 MS. MCCONWELL: I was -- I was --

17 THE COURT: -- about -- about the -- about go
18 ahead and file this stipulation?

19 MS. MCCONWELL: What it was, was is I said -- and
20 on me, we changed it because I didn't want a word "otherwise"
21 in it. I didn't want -- we didn't -- we didn't specifically
22 said, no, 1 through 9 on that --

23 MS. M. MILLER: Here's what she said --

24 THE COURT: Okay, no, no, no.

25 MS. MCCONWELL: What she --

Direct - Khamvongsa

1 THE COURT: No, no, no, Counsel, let me -- just 01:20PM
2 let me hear from her. 01:20PM

3 MS. MCCONWELL: That's the only thing I thought 01:20PM
4 we were talking about was what was on their witness list -- 01:20PM

5 THE COURT: All right. 01:20PM

6 MS. MCCONWELL: -- were those. So that's the 01:20PM
7 first thing. The second -- and that's -- that's -- that's, I 01:20PM
8 think, Item 3 on her stipulation, which I don't think I saw 01:20PM
9 the final one. I sent her this e-mail and then I -- then it 01:20PM
10 got -- then it was filed. 01:20PM

11 Then the next thing is I said, everything that 01:20PM
12 you've got -- and, in my head I'm thinking from us, was either 01:20PM
13 seized or subpoenaed, because they -- they issued several 01:20PM
14 subpoenas against Hansen Helicopters and Hansen -- 01:20PM
15 Hansen-affiliated companies all in the same time. And then 01:20PM
16 they'd also done a subpoena that got responded to that we gave 01:21PM
17 Agent Khamvongsa's stuff in January of 2020. 01:21PM

18 So when she's saying, you know, are you going to 01:21PM
19 agree with the subpoena and the -- and the -- the subpoenaed 01:21PM
20 and the -- the -- the search warrant stuff, I'm thinking this 01:21PM
21 is what she's wanting -- 01:21PM

22 THE COURT: Okay. 01:21PM

23 MS. MCCONWELL: -- is the Hansen Helicopters 01:21PM
24 stuff. 01:21PM

25 THE COURT: Let -- let me just say -- let me just 01:21PM

Direct - Khamvongsa

1 say -- okay, on this --

01:21PM

2 MS. MCCONWELL: There is nothing more specific.

01:21PM

3 THE COURT: On this stipulation and this -- and

01:21PM

4 you -- sounds like there could be a misunderstanding on your

01:21PM

5 part or their part, whatever. I'm not going to make a ruling

01:21PM

6 on that because I don't know. I'd have to really probe that

01:21PM

7 further, so I'm not going to make a ruling at this time.

01:21PM

8 On the business records exception, the Court will

01:21PM

9 sustain the objection. There has not been made -- the witness

01:21PM

10 cannot testify as a chain -- a custodian of record.

01:21PM

11 On the residual exception, it does say that

01:21PM

12 notice -- reasonable pretrial notice is required for that to

01:21PM

13 be admissible, but it goes on to say, and the prosecutor's

01:21PM

14 already argued that you all have had a copy of this, and --

01:21PM

15 and it does say that the Court may give -- the Court may allow

01:21PM

16 this type of residual exception to apply if I find that there

01:22PM

17 is lack of earlier notice for good cause.

01:22PM

18 Now, that's only -- hold on. It only becomes

01:22PM

19 relevant if the Court agrees that this is a hearsay statement.

01:22PM

20 The prosecutor is saying she's not offering it for the truth

01:22PM

21 of the matter asserted. If I agree with her, then residual

01:22PM

22 business records is irrelevant right now at this point. So

01:22PM

23 what -- what she's saying it's being offered for was -- what

01:22PM

24 was it?

01:22PM

25 MR. MARTIN: To prove intent.

01:22PM

Direct - Khamvongsa

1 MS. M. MILLER: The state of mind -- no. 01:22PM
2 THE COURT: Oh, the state of mind -- 01:22PM
3 MS. M. MILLER: State of mind -- 01:22PM
4 THE COURT: Of the tuna boat -- 01:22PM
5 MS. M. MILLER: -- of the tuna boat companies. 01:22PM
6 THE COURT: Okay. I've got it, yeah. 01:22PM
7 MS. M. MILLER: Right. 01:22PM
8 THE COURT: So that's her -- it's going to -- 01:22PM
9 okay, yes? 01:22PM
10 MR. MARTIN: And -- well -- 01:22PM
11 THE COURT: Okay. So that's what she's saying 01:22PM
12 that they're going to try to prove it -- I mean, that's her 01:22PM
13 argument. She's going to infer that maybe or do you have -- 01:22PM
14 do you have -- 01:22PM
15 MR. MARTIN: No. 01:22PM
16 THE COURT: -- a tuna boat guy to say, hey -- 01:22PM
17 MR. MARTIN: No. 01:22PM
18 MS. M. MILLER: No, we don't. 01:22PM
19 THE COURT: -- we relied on that? 01:22PM
20 MR. MARTIN: No, they don't. 01:22PM
21 MS. M. MILLER: No, because they stipulated that 01:22PM
22 we didn't need a records custodian. 01:22PM
23 That -- that -- 01:22PM
24 THE COURT: No, no, no, my question is -- hold 01:22PM
25 on. 01:23PM

Direct - Khamvongsa

1 MS. M. MILLER: -- to begin with. 01:23PM

2 THE COURT: Hold on, hold on, calm down. My 01:23PM

3 question is, is there any tuna boat owner -- 01:23PM

4 MR. MARTIN: No. 01:23PM

5 THE COURT: -- to come in say, you know what, our 01:23PM

6 state of mind was such that -- 01:23PM

7 MS. M. MILLER: No. 01:23PM

8 THE COURT: I mean, okay, so basically you're 01:23PM

9 going to say we believe that this was their state of mind 01:23PM

10 because who would go proceed forward -- okay. I got it. I 01:23PM

11 know. 01:23PM

12 MS. M. MILLER: And paid \$30,000 a year for an 01:23PM

13 insurance policy -- 01:23PM

14 THE COURT: I know. You -- you are -- yeah -- 01:23PM

15 MS. M. MILLER: -- that was -- that was not 01:23PM

16 valid. 01:23PM

17 THE COURT: Okay. All right. 01:23PM

18 MS. MCCONWELL: Well, wait -- 01:23PM

19 THE COURT: So -- so it's really an inferential 01:23PM

20 or circumstantial -- yeah, okay. Okay, go ahead, Mr. -- 01:23PM

21 MR. MARTIN: Well, Your Honor -- 01:23PM

22 THE COURT: Yes? 01:23PM

23 MR. MARTIN: -- I understand you're not going 01:23PM

24 into what stipulation was or wasn't, but I want -- 01:23PM

25 THE COURT: Well, I don't -- I don't have time to 01:23PM

Direct - Khamvongsa

1 go into it right now because I -- I just want to try to see if
2 I can make a ruling --

3 MR. MARTIN: Well --

4 THE COURT: -- without having to deal with that.

5 MR. MARTIN: The residual -- as to the residual
6 rule, Your Honor --

7 THE COURT: Yes.

8 MR. MARTIN: -- when we got the Government's
9 witness list -- not two years ago -- we got it probably
10 6-8 months ago, but there were 30,000 -- 20,900 and something
11 exhibits on it.

12 THE COURT: Uh-huh.

13 MR. MARTIN: Okay. And for them to say we got
14 notice, there it is, Judge. That is a --

15 THE COURT: Are you pointing to the many, many
16 binders in front of us?

17 MR. MARTIN: And that's not all of them.
18 That's --

19 THE COURT: Okay, I got it. Yes, we know.

20 MR. MARTIN: We had thousand of exhibits, and to
21 say that that is notice to us is like looking for a needle in
22 a haystack, Your Honor.

23 THE COURT: All right, okay, so let's --

24 MR. MARTIN: That's not a fair representation.

25 THE COURT: All right, so I've got your notice

1 argument. What about this argument on the state of mind in
2 the tuna boat or --

3 MR. MARTIN: They can call a tuna boat owner to
4 come in and say why we bought insurance company[sic]. But for
5 this agent to say that the insurance policy reflects the state
6 of mind of somebody that he's never met is totally
7 inappropriate. It's speculation.

8 MS. M. MILLER: He's not going to say that, Your
9 Honor. It's the policy itself --

10 THE COURT: But you want to argue -- no, but what
11 you're going to argue that, though --

12 MS. M. MILLER: The policy itself --

13 THE COURT: -- wait, wait, wait. But you want to
14 be able to argue it; right?

15 MS. M. MILLER: What I want --

16 THE COURT: Wait, wait.

17 MS. M. MILLER: Yes.

18 THE COURT: You want to be able to get this in --

19 MS. M. MILLER: What I want to be able to
20 argue --

21 THE COURT: -- so you can argue it.

22 MS. M. MILLER: Yes --

23 THE COURT: That's --

24 MS. M. MILLER: -- I want to be able to argue --
25 absolutely, Your Honor.

1 THE COURT: So we got it -- 01:25PM

2 MS. M. MILLER: What I want to be able to argue 01:25PM
3 is why would -- 01:25PM

4 THE COURT: I know. 01:25PM

5 MS. M. MILLER: -- a tuna boat company -- 01:25PM

6 THE COURT: I got it. 01:25PM

7 MS. M. MILLER: -- pay \$30,000 a year for a 01:25PM
8 policy that requires FAA certification? 01:25PM

9 THE COURT: All right. I got it. You guys don't 01:25PM
10 have to -- you don't have to pound it in my head; I got it. 01:25PM

11 MS. M. MILLER: And, in terms of the notice 01:25PM
12 issue, just so you know, this insurance issue, when we sent 01:25PM
13 them the list of exhibits that were going to be used with 01:25PM
14 Special Agent Khamvongsa before we broke three months ago, 01:25PM
15 these policies were listed on that list three months ago, 01:25PM
16 three months ago. So to say, well, it's 30,000 pages and we 01:25PM
17 haven't had a chance to look at it, insincere, absolutely 01:25PM
18 insincere. 01:25PM

19 THE COURT: Okay. 01:25PM

20 MS. M. MILLER: Of course they've had a chance to 01:25PM
21 look at it. They don't want it in because it is so probative 01:25PM
22 of the fraud. 01:25PM

23 THE COURT: All right. Anything else? 01:25PM

24 MS. M. MILLER: No. 01:25PM

25 THE COURT: Okay, yes? 01:25PM

Direct - Khamvongsa

1 MS. MCCONWELL: Well, I was just -- you know you
2 give -- we're given an exhibit list and we don't have to
3 disclose what all of our objections may be --

4 THE COURT: No, I know.

5 MS. MCCONWELL: -- to an exhibit --

6 THE COURT: I agree.

7 MS. MCCONWELL: -- until it's actually offered.

8 THE COURT: Right, or if it's offered because it
9 could --

10 MS. MCCONWELL: If it's offered --

11 THE COURT: Yeah.

12 MS. MCCONWELL: -- because a lot of them aren't
13 being offered, so I'm not really clear where that --

14 THE COURT: All right. All right. So the Court
15 is going to hold this under advisement. Let me think about it
16 for a little bit, and then just move on to the next question.

17 MS. M. MILLER: Yes, Your Honor.

18 THE COURT: All right. By the way, I did have
19 Lani speak to the jurors and say, hey, is it possible that we
20 could, you know, go up -- go earlier or go later. And they're
21 asking -- the consensus is they say a lot of them have to pick
22 up their children -- go to school in the morning, pick them up
23 at end of day. It would be difficult for them to. It's not
24 until they start deliberating, I suppose, where we're going to
25 be able to do that. So just wanted to at least give you

Direct - Khamvongsa

1 heads-up.

01:26PM

2 All right. Let's take a ten-minute recess.

01:26PM

3 Everybody go use the restroom. We'll come back -- but let me

01:26PM

4 hold off on that. How many more -- you can go on to another

01:26PM

5 area, and --

01:26PM

6 MS. M. MILLER: Yeah, we'll go on to another

01:26PM

7 area.

01:26PM

8 THE COURT: -- we'll come back to this insurance

01:26PM

9 policy later.

01:26PM

10 MS. M. MILLER: Yes, Your Honor.

01:26PM

11 THE COURT: Okay. Ten minutes, Counsel.

01:26PM

12 MS. M. MILLER: Thank you.

01:26PM

13 (Recess taken at 1:26 p.m.)

01:27PM

14 (Back on the record at 1:56 p.m.)

01:56PM

15 THE COURT: We're back on the record, all

01:58PM

16 Counsels present. The jurors are not present, but we'll call

01:58PM

17 in the jurors.

01:58PM

18 Let me just say couple things. Let me just make

01:58PM

19 a ruling.

01:58PM

20 Okay, for -- on the relevancy objection, the

01:58PM

21 Court finds that the evidence is relevant.

01:58PM

22 On the foundation exception -- or the objection,

01:58PM

23 excuse me -- not exception, objection -- I would agree with

01:58PM

24 the defense Counsel that a business records exception is not

01:58PM

25 met here in terms of the colloquy.

01:58PM

1 Under the -- the next exception that the 01:58PM
2 prosecution has asked the Court to bring it under, 807, the 01:58PM
3 residual exception, the Court notes that -- okay, the Court 01:58PM
4 notes that -- well, the threshold issue the Court has to 01:58PM
5 decide is whether or not this is hearsay. So the prosecution 01:58PM
6 has indicated that -- 01:59PM

7 Okay, before I get to the hearsay, let me -- 01:59PM
8 before I get to the hearsay, let me just make my ruling. So 01:59PM
9 with regard to the business records and the residual 01:59PM
10 exception, at this point, the Court will sustain the 01:59PM
11 objections. I don't find it is hearsay, but I'll get to the 01:59PM
12 hearsay issue -- the non-hearsay issue, the second. 01:59PM

13 On the issue of the stipulation, the Court has 01:59PM
14 reviewed the particular e-mail and -- by Laura McConwell and 01:59PM
15 to Marie Miller, and so -- and so I looked at that over the 01:59PM
16 recess. And so I think -- you know, honestly, I think that it 01:59PM
17 probably went both ways. I think really there was a good 01:59PM
18 faith basis to -- to -- the Court to believe what Ms. 01:59PM
19 McConwell said, and I think that there's a good faith basis 01:59PM
20 to -- to believe what Ms. Marie Miller said and did, so -- so 01:59PM
21 I'm not going to make a ruling on that. I don't want to 01:59PM
22 choose the between of you, because I think really probably 02:00PM
23 happened both ways. So -- so with regard to that, the Court's 02:00PM
24 deciding not to make a ruling on that particular issue. 02:00PM

25 But on the issue of hearsay, the prosecution is 02:00PM

Direct - Khamvongsa

1 saying it's not being offered for the truth of the matter 02:00PM
2 asserted but it's being offered to show the state of the mind 02:00PM
3 of the tuna boat companies. And so it's very -- it's going to 02:00PM
4 be a very inferential circumstantial argument, but the Court 02:00PM
5 will overrule the objection and indicate that I do believe 02:00PM
6 that they could arguing that as -- as their offer of proof. 02:00PM

7 But, of course, Mr. Martin and Ms. McConwell and 02:00PM
8 Mr. McConwell, whoever makes the closing arguments, you could 02:00PM
9 just -- you could argue that away too, I mean, just as easily. 02:00PM
10 I mean, this is -- there's nobody here to -- I mean, state of 02:00PM
11 mind is very subjective. And -- and, you know, for the 02:00PM
12 prosecution to say, well, we believe that, you know, who would 02:00PM
13 do this, who would spend this much money? You've heard her 02:00PM
14 argument already. She's already given you a preview of that. 02:01PM
15 But then again, you could argue that, well, there's nobody 02:01PM
16 hear saying that, that that was their state of mind. 02:01PM

17 So the Court will -- with regard to that 02:01PM
18 particular proffer, the Court -- and that particular -- well, 02:01PM
19 first, as to that objection of hearsay, the Court finds it's 02:01PM
20 not hearsay based on the proffer. So the Court will allow 02:01PM
21 this exhibit in for that limited purpose. 02:01PM

22 Okay. Very well. We'll call in the jury. 02:01PM

23 Oh, and then let me just say, the Court does not 02:01PM
24 find it cumulative and the Court does not feel that the -- 02:01PM
25 under 403, because that was the sixth -- sixth objection, so 02:01PM

1 under 403, let me just say, the Court finds that -- it says
2 the relevant evidence may be excluded if its probative value
3 is substantially outweighed by danger of unfair prejudice,
4 confusion of issues, misleading the jury, or by considerations
5 of delay, waste of time, or needless presentation, cumulative
6 evidence. And the Court finds that, based on that particular
7 rule, that the Court does not find that its probative value is
8 substantially outweighed by those particular danger points.
9 So the Court will allow that -- this exhibit to be admitted,
10 okay, for that limited purpose.

11 Yes, Ms. McConwell?

12 (Exhibit admitted.)

13 MS. MCCONWELL: And that's only as to Jon Walker,
14 not to Hansen Helicopters?

15 THE COURT: Yeah, that's fine.

16 Okay. We'll call in the jury. And then make
17 sure -- just -- just ask me for the admission then --

18 MS. M. MILLER: Yes, Your Honor, I will.

19 THE COURT: The Court's already made the ruling
20 and then just ask --

21 MS. M. MILLER: I will.

22 THE COURT: -- ask -- ask the Court to admit it
23 and then I will admit it --

24 MS. M. MILLER: Yes, Your Honor.

25 THE COURT: -- and then I'll give a limiting

1 instruction.

02:02PM

2 And you just want to say specifically as to -- or
3 just state what the proffer is, so I can state it exactly --

02:02PM

02:02PM

4 MS. M. MILLER: Yes, Your Honor.

02:03PM

5 THE COURT: -- how I'm going do it in the
6 limiting instruction.

02:03PM

02:03PM

7 MS. M. MILLER: Yes, Your Honor.

02:03PM

8 THE COURT: Okay.

02:03PM

9 MS. MCCONWELL: And, Your Honor, I'm concern --
10 I'm confused. What's the limiting purpose?

02:03PM

02:03PM

11 THE COURT: That it's on for -- the particular
12 proffer is for state of mind. That's it. And is it as to all
13 the companies?

02:03PM

02:03PM

14 MS. M. MILLER: Yes, Your Honor.

02:03PM

15 THE COURT: Be very specific when you --

02:03PM

16 MS. M. MILLER: Yes.

02:03PM

17 THE COURT: Or do you want to wait to give a
18 limiting after to write it out and then you guys can review
19 it? Do you want --

02:03PM

02:03PM

20 MS. M. MILLER: I think so.

02:03PM

21 THE COURT: -- to do that instead?

02:03PM

22 MS. M. MILLER: I think that might be better.

02:03PM

23 THE COURT: Mr. Martin and Ms. McConwell?

02:03PM

24 MS. M. MILLER: I think so.

02:03PM

25 THE COURT: Do you want -- do you want me to wait

02:03PM

1 and give a limiting instruction afterwards? 02:03PM

2 MR. MARTIN: Yes, Your Honor. 02:03PM

3 THE COURT: So maybe you can look at the wording 02:03PM
4 on that. 02:03PM

5 (Jury in at 2:03 p.m.) 02:03PM

6 THE COURT: Okay. Okay, welcome back, ladies and 02:03PM
7 gentlemen of the jury. Thank you very much for your time. 02:03PM
8 I'm sorry, that was -- there's a legal issue that I really 02:03PM
9 needed to speak to the lawyers about, so don't hold it against 02:03PM
10 the lawyers. They both have a duty to represent their clients 02:03PM
11 vigorously and zealously, and the Court has a equal duty to 02:04PM
12 make sure that I listen to their arguments and make a 02:04PM
13 decision. So I've already -- we've already had our hearing 02:04PM
14 here outside your presence. 02:04PM

15 So, yes, Ms. Miller, you may proceed. 02:04PM

16 MS. M. MILLER: Yes, Your Honor, at this time, 02:04PM
17 the government would offer into evidence what has been 02:04PM
18 previously marked as Government's Exhibit 92. 02:04PM

19 THE COURT: All right. The Court notes that 02:04PM
20 Mr. Martin and Ms. McConwell, Mr. McConwell have objected 02:04PM
21 strongly, and the Court has overruled the objections as 02:04PM
22 indicated in the hearing outside the jury. The Court will 02:04PM
23 admit Exhibit 92 for a very limited purpose, and I'll give 02:04PM
24 that limiting jury instruction later on. I want the attorneys 02:04PM
25 to review that instruction. But there will be only a limited 02:04PM

1 purpose for the admission of Exhibit 92. 02:04PM

2 (Exhibit 92 admitted.) 02:04PM

3 MS. M. MILLER: Yes, Your Honor. 02:04PM

4 THE COURT: Yes, you may publish. 02:04PM

5 MS. M. MILLER: May I publish it please? 02:04PM

6 THE COURT: Mm-hmm. 02:04PM

7 (Pause.) 02:04PM

8 BY MS. M. MILLER: (CONTINUING) 02:04PM

9 Q. So, Special Agent Khamvongsa, could you please tell 02:05PM
10 the members of the jury what we're looking at here? 02:05PM

11 A. This is the aircraft insurance policy from South 02:05PM
12 Pacific Tuna Company. 02:05PM

13 Q. Okay. Could you please go to the first content page 02:05PM
14 of the policy, which is 92-2. Okay. 02:05PM

15 MS. M. MILLER: And can you hone in, if you don't 02:05PM
16 mind, Ms. Miller, on the top portion first, just so we could 02:05PM
17 see the coverage period and what's covered -- thank you. 02:05PM

18 BY MS. M. MILLER: (CONTINUING) 02:05PM

19 Q. Okay. So could you please tell the members of the 02:05PM
20 jury first who is the insured? 02:05PM

21 A. The insured is Sea Global Fisheries, LLC and its 02:05PM
22 individual executive officers and members. 02:05PM

23 Q. And, sir, going back to that lease that we talked 02:05PM
24 about earlier involving this aircraft, is that the same as Sea 02:05PM
25 Bounty/South Pacific Tuna? 02:05PM

Direct - Khamvongsa

1 A. Yes, it's one of the individual items that make up 02:05PM
2 the Sea Global Fisheries, the individual tuna boats. 02:05PM

3 Q. Okay. And could you tell the members of the jury the 02:05PM
4 policy period, please? 02:06PM

5 A. September 15th, 2017 to September 15th, 2018. 02:06PM

6 Q. Okay. And was that during the period of time that 02:06PM
7 the lease which was entered into evidence previously? 02:06PM

8 A. Yes. 02:06PM

9 Q. Okay. Now, can you look at, under paragraph 5, the 02:06PM
10 description of the aircraft, and can you tell the members of 02:06PM
11 the jury what does it say under paragraph 5 in terms of the 02:06PM
12 description of the aircraft and the registration number? 02:06PM

13 A. Paragraph 5? Did you want me to read it? 02:06PM

14 Q. Yes, if you don't mind. 02:06PM

15 A. "You have told us that each of the aircraft below (1) 02:06PM
16 is a fixed wing land aircraft with an FAA standard 02:06PM
17 airworthiness certificate unless noted in the aircraft 02:06PM
18 description below, and (2) is solely and unconditionally owned 02:06PM
19 by you unless noted differently in Item 1 or endorsements we 02:06PM
20 issue. If no agreed value amount is shown, no aircraft 02:06PM
21 physical damage coverage is provided." 02:06PM

22 Q. Okay. And then can you tell the members of the jury 02:06PM
23 what do you see underneath that where it says "registration 02:06PM
24 number"? 02:06PM

25 A. It says FAA registration number. 02:06PM

1 Q. Okay.

02:07PM

2 MS. M. MILLER: And, Ms. Miller, can you now zoom
3 out and can you please go to the next page where it has the
4 listing of the aircraft? Thank you. And can you please
5 highlight under Section 5. Yes, Section 5 and 6. Okay.

02:07PM

02:07PM

02:07PM

02:07PM

6 BY MS. M. MILLER: (CONTINUING)

02:07PM

7 Q. Do you see N3699V there, sir?

02:07PM

8 A. Yes.

02:07PM

9 Q. And can you tell the members of the jury, what does
10 it indicate the description of that aircraft is?

02:07PM

02:07PM

11 A. The description is the -- N369V is a 1969 Hughes 369A
12 helicopter.

02:07PM

02:07PM

13 Q. And could you, please, read paragraph 5 where it says
14 description of the aircraft, and again "you have told us"?

02:07PM

02:07PM

15 A. "You have told us that each of the aircraft below (1)
16 has an FAA standard airworthiness certificate unless noted
17 below, and (2) is solely and unconditionally owned by you
18 unless noted differently in Item 1 or endorsements we issue."

02:07PM

02:07PM

02:07PM

02:08PM

19 Q. Now, can you remind the jury please, sir, where did
20 these airworthiness certificates come from, specifically the
21 one for N369V?

02:08PM

02:08PM

02:08PM

22 A. The -- they come from the FAA, the airworthiness
23 certificates.

02:08PM

02:08PM

24 Q. And who is the inspector who issued the airworthiness
25 certificate?

02:08PM

02:08PM

Direct - Khamvongsa

1 A. Mr. Cislo.

02:08PM

2 Q. And Mr. Cislo who agreed that he accepted a bribe in
3 exchange for 'em?

02:08PM

02:08PM

4 MR. MARTIN: Your Honor, I object to her leading
5 question, testifying. It's inappropriate and I object. There
6 is a proper way.

02:08PM

02:08PM

02:08PM

7 THE COURT: All right. The Court will sustain
8 the objection as to leading.

02:08PM

02:08PM

9 BY MS. M. MILLER: (CONTINUING)

02:08PM

10 Q. Yes. What did Mr. Cislo receive in exchange for
11 issuing the airworthiness certificate, sir?

02:08PM

02:08PM

12 A. Mr. Cislo received an airplane --

02:08PM

13 MS. MCCONWELL: Your Honor, this is -- I object
14 to the foundation of that question, Your Honor.

02:08PM

02:08PM

15 THE COURT: Foundation?

02:09PM

16 MS. MCCONWELL: Yeah, there's -- it's -- it's --

02:09PM

17 THE COURT: All right. Sustained.

02:09PM

18 MS. MCCONWELL: There is no evidence --

02:09PM

19 THE COURT: All right. Sustained, foundation.

02:09PM

20 Go ahead.

02:09PM

21 BY MS. M. MILLER: (CONTINUING)

02:09PM

22 Q. How do you know, sir, what Mr. Cislo received in
23 exchange for these airworthiness certificates?

02:09PM

02:09PM

24 A. I know --

02:09PM

25 MR. MARTIN: Your Honor, we object to that

02:09PM

1 question. That's the same issue. There's no evidence that he 02:09PM
2 received anything in exchange. She can ask a question but 02:09PM
3 not -- not the way she's doing it. 02:09PM

4 MS. M. MILLER: Your Honor -- 02:09PM

5 THE COURT: Okay, okay, the Court will overrule 02:09PM
6 of the objection. She's trying to -- go ahead. Overruled. 02:09PM
7 Go ahead. 02:09PM

8 BY MS. M. MILLER: (CONTINUING) 02:09PM

9 Q. Could you please tell the jury? 02:09PM

10 A. Yeah. 02:09PM

11 THE COURT: She's trying to -- she's trying to 02:09PM
12 lay a foundation. You guys are objecting to foundation. Go 02:09PM
13 ahead. 02:09PM

14 THE WITNESS: Mr. Cislo received an airplane for 02:09PM
15 looking the other way and not doing his due duty -- due 02:09PM
16 diligence as a safety inspector for the FAA. So he issued 02:09PM
17 airworthiness certificates without ensuring their -- 02:09PM

18 MS. MCCONWELL: Your Honor, I object to the 02:09PM
19 narrative. 02:09PM

20 THE WITNESS: -- safety. 02:09PM

21 THE COURT: Okay, so the question, though, is how 02:09PM
22 do you -- 02:09PM

23 MS. MCCONWELL: And to foundation. 02:09PM

24 THE COURT: How do you know? 02:09PM

25 THE WITNESS: I know based upon testimony 02:09PM

1 provided by Cislo, as well as my review -- review of the
2 records.

3 MS. MCCONWELL: And the remoteness in time.

4 THE COURT: Overruled. Go ahead. All right.

5 BY MS. M. MILLER: (CONTINUING)

6 Q. I'm not sure if the jury heard you, so how do you
7 know again, sir?

8 A. I know based upon statements made by Mr. Cislo.

9 Q. Okay. And, as a special agent who is assigned to
10 this case, were you permitted to listen to the testimony of
11 Mr. Cislo?

12 A. Yes.

13 Q. Okay. Now, could you, please, tell the members of
14 the jury again where we see, under paragraph 5, what does it
15 indicate in terms of the registration number, which agency is
16 issuing that registration number?

17 A. For U.S. -- it's a -- for N369V which agency, federal
18 agency? For all the N-related numbers, they're
19 U.S.-registered numbers, and FAA has a responsibility to
20 ensure their safety.

21 Q. Did you count how many times the word FAA appears in
22 this insurance policy?

23 A. This document FAA appears 54 times.

24 Q. So, as we go down to the next section, can you tell
25 the members of the jury what they're seeing in terms of

1 paragraph 6?

02:11PM

2 A. Did you want me to read it specifically?

02:11PM

3 Q. Yes, please. What is the title of paragraph 6?

02:11PM

4 A. Liability and medical payments coverage and limits of
5 coverage.

02:11PM

6 Q. And what was the limit of coverage for each
7 occurrence for N369V?

02:11PM

8 A. \$1 million.

02:11PM

9 Q. Okay. And then let's go down to paragraph 7,
10 premiums.

02:11PM

11 MS. M. MILLER: And, Ms. Miller, can you pull in
12 all of paragraph 7, including the total for the premiums paid.

02:11PM

13 BY MS. M. MILLER: (CONTINUING)

02:11PM

14 Q. And could you tell the members of the jury, what was
15 the total of the premiums paid per year for these insurance
16 policies, sir?

02:11PM

02:11PM

17 A. \$27,624.

02:11PM

18 Q. Okay.

02:11PM

19 MS. M. MILLER: And, Ms. Miller, could we go to
20 the next page, please. Is that on the next page?

02:12PM

21 (Pause.)

02:12PM

22 MS. M. MILLER: It's on, yeah, page 4. Sorry.
23 Thank you.

02:12PM

02:12PM

24 BY MS. M. MILLER: (CONTINUING)

02:12PM

25 Q. And could you tell the members of the jury if we look

02:12PM

1 at paragraph 9, what is the use of the aircraft being cited in
2 paragraph 9?

3 A. The use of the aircraft?

4 Q. Yes.

5 A. "The aircraft will be used for your pleasure and
6 business-related purposes where no changes made for such use,
7 and also may be used for other uses described below. Other
8 uses, fish spotting, see endorsement number three."

9 MS. M. MILLER: And now let's go to the next
10 page, Ms. Miller, and where it says requirements for the pilot
11 flying the aircraft. No, next page. Next page. There you
12 go. And can you highlight that for the jury, please.

13 BY MS. M. MILLER: (CONTINUING)

14 Q. And could you read for the jury what the requirements
15 were for the pilot flying the aircraft?

16 A. Would you like me to start at where the aircraft or
17 read it --

18 Q. Just where it says "this endorsement"?

19 A. Okay. "This endorsement applies only to the
20 following aircraft. If no entry is made in this endorsement
21 -- if no entry is made, this endorsement applies to all
22 aircraft covered by your policy. This endorsement completes
23 or changes Item 9, requirements by the pilot flying the
24 aircraft of your coverage identification page to read as
25 follows: The aircraft must be operated in flight only by a

1 pilot named below having the minimum qualifications shown. 02:14PM

2 The pilots must have a current and valid medical certificate, 02:14PM
3 flight review, and pilot certificate with necessary ratings, 02:14PM
4 each as required by the FAA for each flight. There is no 02:14PM
5 coverage if the pilot does not meet the qualifications or 02:14PM
6 requirements specified below for each designated use of the 02:14PM
7 aircraft." 02:14PM

8 Q. How many of these policies, sir, did you review? 02:14PM

9 A. I was provided approximately 60 policies. 02:14PM

10 Q. Okay. And did you review them all? 02:14PM

11 A. Yes. 02:14PM

12 Q. All right. I'd like to now turn your attention to a 02:14PM
13 demonstrative aid that will show the jury what these specific 02:14PM
14 wire fraud counts are in our Second Superseding Indictment. 02:14PM

15 MS. M. MILLER: Ms. Miller, could you please show 02:14PM
16 the jury Demonstrative Aid 43. 02:14PM

17 And, Your Honor, may I publish it to the jury? 02:14PM
18 It's just an excerpt from the Second Superseding Indictment. 02:15PM

19 THE COURT: Okay, Counsels? 02:15PM

20 MR. MARTIN: Could we be advised what it is -- 02:15PM

21 THE COURT: Yeah. 02:15PM

22 MR. MARTIN: -- since we've not been provided it? 02:15PM

23 THE COURT: Okay, yeah, tell us where it is. 02:15PM

24 MS. M. MILLER: Yes, Your Honor, I did. It's an 02:15PM
25 excerpt from -- 02:15PM

1 MR. MARTIN: Got that. 02:15PM

2 MS. M. MILLER: -- the Second Superseding 02:15PM
3 Indictment of Counts 100 through 104, which are the wire fraud 02:15PM
4 counts. 02:15PM

5 THE COURT: Okay, so it's in -- it's on the 02:15PM
6 Second Superseding Indictment, Counts 100 to 104? 02:15PM

7 MS. M. MILLER: Yes, Your Honor. 02:15PM

8 THE COURT: And the -- what is the exhibit 02:15PM
9 number? 02:15PM

10 MS. M. MILLER: It is Government's Demonstrative 02:15PM
11 Aid No. 43-1. 02:15PM

12 THE COURT: Okay, did you find that there, 02:15PM
13 Mr. Martin? 02:15PM

14 MS. M. MILLER: It's on the screen, Your Honor. 02:15PM

15 THE COURT: No -- okay. 02:15PM

16 MR. MARTIN: We didn't -- we didn't get the 02:15PM
17 demonstrative aid, but I have the indictment, Your Honor. 02:15PM

18 THE COURT: Okay, all right. Very well. Go 02:15PM
19 ahead, you can compare. Any objections, Counsels? 02:15PM

20 MR. MARTIN: Other than we'd like to be provided 02:15PM
21 the demonstrative aids ahead of time, Your Honor, so we could 02:15PM
22 be prepared. 02:15PM

23 THE COURT: All right, that's fair enough. 02:15PM
24 Counsel, make sure you provide it ahead of time. 02:15PM

25 MS. M. MILLER: Yes, Your Honor. Maybe we 02:15PM

1 publish this to the jury?

02:15PM

2 THE COURT: All right, yeah, no -- okay, with
3 you, Ms. McConwell?

02:15PM

02:15PM

4 MS. MCCONWELL: Yes, ma'am.

02:16PM

5 THE COURT: All right, very well, may be
6 published.

02:16PM

02:16PM

7 BY MS. M. MILLER: (CONTINUING)

02:16PM

8 Q. Special Agent Khamvongsa, do you see Demonstrative
9 Aid 43 in front of you?

02:16PM

02:16PM

10 A. Yes.

02:16PM

11 Q. What role did you have in assisting the Government in
12 preparing the indictment?

02:16PM

02:16PM

13 A. Not only did I do the -- not only did I do the
14 investigation as it relates to these specific counts, but I
15 also assisted the U.S. Attorneys with the preparation of the
16 indictment.

02:16PM

02:16PM

02:16PM

02:16PM

17 Q. And could you tell the members of the jury why you
18 chose these particular transactions for the wire fraud counts?

02:16PM

02:16PM

19 A. So of the transaction, I learned there was over 3,000
20 transactions, and this is a sample of the 3,000 transactions
21 that I reviewed as it relates to the wire fraud.

02:16PM

02:16PM

02:16PM

22 Q. Okay. And now let's talk about specifically
23 Count 100. Can you tell the members of the jury, what was the
24 date of that wire transfer that constitutes that particular
25 allegation?

02:16PM

02:16PM

02:16PM

02:17PM

Direct - Khamvongsa

1 A. September 4th, 2015.

02:17PM

2 Q. And where was it a wire transfer from?

02:17PM

3 A. It was from Friesland Fishing Company, LLC.

02:17PM

4 Q. And what was the amount?

02:17PM

5 A. \$134,219.92.

02:17PM

6 Q. Could you tell the members of the jury what you did
7 in order to determine whether that particular wire transfer
8 was supported by the evidence in this case?

02:17PM

02:17PM

02:17PM

9 A. What I did was I started first with the bank

02:17PM

10 statement. The bank statement from there, at the bank -- I

02:17PM

11 looked at the bank statement, and I looked at that specific

02:17PM

12 transaction. In this case, it's Friesland Fishing. From

02:17PM

13 there I identified the tuna boat company.

02:17PM

14 I went back to the billing schedules and collections

02:17PM

15 to identify the vessel that it may have been -- that was

02:17PM

16 assigned to that and also to refer to whether or not the

02:17PM

17 payment matches up. So I was looking at both the bank record

02:17PM

18 and Hansen Helicopters' own records.

02:18PM

19 And then from there, once identifying the tuna boat,

02:18PM

20 I reviewed the aircraft vessel assignment to determine the

02:18PM

21 helicopter. Once I identified the helicopter, I went back to

02:18PM

22 the pilot-mechanic listings that were provided by Hansen

02:18PM

23 Helicopters that I received and I determined the pilot and

02:18PM

24 mechanic assigned to that. I compared that to the FAA records

02:18PM

25 as to whether or not they were certified as a mechanic or a

02:18PM

Direct - Khamvongsa

1 pilot.

02:18PM

2 Q. Okay. And, in each of these instances, can you tell
3 the members of the jury whether the pilots and mechanics were
4 in fact certified by the FAA?

02:18PM

02:18PM

02:18PM

5 A. They were not.

02:18PM

6 Q. Okay. And in each of these instances, did they
7 involve a helicopter that had received an airworthiness
8 certificate from Mr. Cislo?

02:18PM

02:18PM

02:18PM

9 A. Yes, Counts 100, 101 and 102 reflect -- or reflect
10 Mr. Cislo's involvement in not doing his duty in ensuring that
11 they were properly inspected and safe.

02:18PM

02:19PM

02:19PM

12 MS. MCCONWELL: Your Honor, this calls for --
13 it's beyond the scope of the question and it's a narrative.

02:19PM

02:19PM

14 THE COURT: Overruled, go ahead.

02:19PM

15 BY MS. M. MILLER: (CONTINUING)

02:19PM

16 Q. Did you finish answering the question, sir?

02:19PM

17 A. Yes.

02:19PM

18 Q. Okay. Now, can you tell the members of the jury
19 which helicopter was involved in Count 100?

02:19PM

02:19PM

20 A. Count 100 --

02:19PM

21 Q. Yes.

02:19PM

22 A. -- involved N454S.

02:19PM

23 Q. Okay. And could you tell the members of the jury who
24 had registered N454S with the FAA as the owner?

02:19PM

02:19PM

25 A. Could you, please, provide 1252 --

02:20PM

Direct - Khamvongsa

1 Q. Yes.

02:20PM

2 A. -- the summary chart?

02:20PM

3 Q. Yes.

02:20PM

4 MS. M. MILLER: Yes, Ms. Miller, could you pull
5 up Exhibit 1252.

02:20PM

02:20PM

6 BY MS. M. MILLER: (CONTINUING)

02:20PM

7 Q. Do you see that, sir?

02:20PM

8 A. Yes.

02:20PM

9 Q. Can you tell the members of the jury which company
10 registered this helicopter with the FAA?

02:20PM

02:21PM

11 A. Dave's Helicopter Service, Inc. registered this
12 particular helicopter.

02:21PM

02:21PM

13 Q. And that was the registration at the time of that
14 wire transfer?

02:21PM

02:21PM

15 A. Yes.

02:21PM

16 Q. And could you tell the members of the jury which
17 company registered the helicopter initially with the FAA?

02:21PM

02:21PM

18 A. Hansen Helicopters, Inc.

02:21PM

19 Q. And who had signed that initial registration?

02:21PM

20 A. I don't know -- Defendant Jon Walker.

02:21PM

21 Q. And then in 1999, what was that changed to?

02:21PM

22 A. It was changed to Eddie Air, Inc.

02:21PM

23 Q. And, again, who signed that registration?

02:21PM

24 A. Jon Walker.

02:21PM

25 Q. And then in 2002, who was it changed to?

02:21PM

Direct - Khamvongsa

1 A. Dave's Helicopter Service, Inc. 02:21PM

2 Q. And who signed off on that registration? 02:21PM

3 A. Defendant Jon Walker. 02:21PM

4 MR. MARTIN: Your Honor, I object. His name is 02:21PM
5 Jon Walker. It doesn't say *Defendant* on there, and he's done 02:21PM
6 this over and over. It's -- it's Jon Walker or -- and -- 02:21PM
7 and -- 02:22PM

8 THE COURT: Okay. All right. Just say Jon 02:22PM
9 Walker. 02:22PM

10 MS. M. MILLER: Jon Walker is the defendant. 02:22PM

11 THE COURT: Just say just Walker. 02:22PM

12 MR. MARTIN: No, Your Honor. 02:22PM

13 MS. M. MILLER: No? 02:22PM

14 MR. MARTIN: That's training, Marie. 02:22PM

15 MS. M. MILLER: Excuse me? 02:22PM

16 THE COURT: Jon Walker -- you can say -- Counsel, 02:22PM
17 that's fine. The Court will sustain the objection. Just say 02:22PM
18 Jon Walker, that's what it says, yes? 02:22PM

19 MS. MCCONWELL: We're on 12 -- 1252, correct, 02:22PM
20 isn't that -- 02:22PM

21 THE COURT: Exhibit -- 02:22PM

22 MS. M. MILLER: Because that is what has been 02:22PM
23 admitted into evidence, then it's -- 02:22PM

24 THE COURT: Yes. 02:22PM

25 MS. MCCONWELL: Well, I'm just using one off of 02:22PM

1 my flash drive, and my page for N454S is different than... 02:22PM
2 yeah, I -- I don't think I have the same one that Counsel's 02:22PM
3 using. Yeah, I don't. 02:22PM

4 THE COURT: Okay. Was it amended? 02:22PM

5 MS. M. MILLER: No. 02:22PM

6 THE COURT: It wasn't amended. You want to 02:22PM
7 double-check that, Ms. McConwell? She's -- 02:22PM

8 MS. MCCONWELL: May I approach? 02:22PM

9 THE COURT: Yeah, go ahead, you can talk -- you 02:22PM
10 want to show the prosecutor? Okay, why don't you do that. 02:22PM

11 (Counsel conferred.) 02:23PM

12 MS. M. MILLER: This was -- this an amendment you 02:23PM
13 wanted to take out reference. 02:23PM

14 MS. MCCONWELL: But that's what's on -- I 02:23PM
15 don't -- 02:23PM

16 MS. M. MILLER: But what was submitted into 02:23PM
17 evidence is this. 02:23PM

18 MS. MCCONWELL: I don't -- I don't have the 02:23PM
19 current one on the flash drive. 02:23PM

20 MS. S. MILLER: I just re-sent it. 02:23PM

21 MS. M. MILLER: She just sent it. 02:23PM

22 There was -- there was a request by defense 02:23PM
23 Counsel to remove information of prior owners before it got to 02:23PM
24 Hansen, which we did. And what was admitted into evidence is 02:23PM
25 the one that only had the Hansen ownership information. 02:23PM

1 THE COURT: All right. 02:23PM

2 MS. M. MILLER: And so -- 02:23PM

3 MR. MARTIN: Your Honor, I don't know that the 02:23PM
4 explanation is necessary. Let's just get the right document. 02:23PM

5 THE COURT: Well, I know. 02:23PM

6 MR. MARTIN: We have a comment on everything -- 02:23PM

7 THE COURT: Okay. 02:23PM

8 MR. MARTIN: -- and I object to that. 02:24PM

9 THE COURT: Let me just -- so, Ms. McConwell, did 02:24PM
10 you find -- okay, did you figure it out, what happened? 02:24PM

11 MS. M. MILLER: Ms. Miller just -- 02:24PM

12 MS. MCCONWELL: No. Ms. Miller has -- has 02:24PM
13 e-mailed me. She sent the correct one. The one that was on 02:24PM
14 the flash drive that they gave me is not. 02:24PM

15 THE COURT: So you just got it now? 02:24PM

16 MS. M. MILLER: No, Your Honor. This was used -- 02:24PM

17 MS. MCCONWELL: No, I did not -- 02:24PM

18 THE COURT: Okay, wait, wait, let me just ask 02:24PM
19 her. What was that? 02:24PM

20 MS. MCCONWELL: I pulled up the one that's on the 02:24PM
21 flash drive. She's e-mailed it to me. I will -- I will pull 02:24PM
22 it up. 02:24PM

23 THE COURT: Okay, give her a minute. Give her a 02:24PM
24 minute. 02:24PM

25 MS. MCCONWELL: Okay, I'm -- I'm with her now. 02:25PM

Direct - Khamvongsa

1 THE COURT: All right, very well. Go ahead. 02:25PM

2 Proceed. 02:25PM

3 BY MS. M. MILLER: (CONTINUING) 02:25PM

4 Q. Okay. Special Agent Khamvongsa, so Dave's is the 02:25PM
5 registered owner at the time of this particular wire 02:25PM
6 transaction? 02:25PM

7 A. Yes. 02:25PM

8 Q. And you told the members of the jury that you also 02:25PM
9 looked at the bank records; is that correct? 02:25PM

10 A. Yes. 02:25PM

11 Q. So let's look what has been previously marked but not 02:25PM
12 introduced, Exhibit 0021. Do you recognize this document, 02:25PM
13 sir? 02:25PM

14 A. Yes. 02:25PM

15 Q. Is it a true and correct copy of the document that 02:25PM
16 you received from the Bank of Hawaii? 02:25PM

17 A. Yes. 02:26PM

18 MS. M. MILLER: Your Honor, at this time the 02:26PM
19 Government would offer into evidence what has been previously 02:26PM
20 marked as Government's Exhibit 21. 02:26PM

21 THE COURT: Okay. Counsels? 02:26PM

22 MR. MARTIN: We stipulated to it, Your Honor. I 02:26PM
23 don't have any objections. 02:26PM

24 THE COURT: All right. 02:26PM

25 MS. MCCONWELL: And this is only as to Jon 02:26PM

Direct - Khamvongsa

1 Walker, not Hansen.

02:26PM

2 THE COURT: All right. Very well. Ladies and
3 gentlemen of the jury, Exhibit G-0021 admitted without
4 objection and applies to Defendant Jon Walker. You may
5 proceed.

02:26PM

02:26PM

02:26PM

02:26PM

6 (Exhibit G-0021 admitted.)

02:26PM

7 MS. M. MILLER: May I publish this to the jury,
8 Your Honor?

02:26PM

02:26PM

9 THE COURT: Okay, uh-huh. It's only one page;
10 right?

02:26PM

02:26PM

11 MS. M. MILLER: No, Your Honor.

02:26PM

12 THE COURT: Oh, how many pages? So let's see --

02:26PM

13 MS. M. MILLER: Eleven.

02:26PM

14 THE COURT: All right. Okay. So let's just make
15 sure we say G-0021 through 11?

02:26PM

02:26PM

16 MS. M. MILLER: Yes, Your Honor.

02:26PM

17 THE COURT: All right. Very well. That'll be
18 admitted then without objection and as I already stated.

02:26PM

02:26PM

19 Okay. Go ahead. You may publish.

02:26PM

20 MS. M. MILLER: Thank you, Your Honor.

02:26PM

21 And, Ms. Miller, can you highlight just the top
22 portion so we can show the jury what this record is.

02:26PM

02:26PM

23 BY MS. M. MILLER: (CONTINUING)

02:26PM

24 Q. Special Agent Khamvongsa, could you tell the members
25 of the jury how you obtained this record?

02:27PM

02:27PM

Direct - Khamvongsa

1 A. I obtained this record through the grand jury
2 subpoena.

3 Q. Okay. And could you tell the members of the jury
4 what is the name of the company on this bank -- bank record?

5 A. Caledonian Agency, Inc. is identified here in this
6 bank statement.

7 Q. Okay. And could you remind the members of the jury
8 what kind of business was Caledonian Agency, Inc.?

9 A. Investment.

10 Q. Okay.

11 MS. M. MILLER: And could you please back off of
12 the highlight please, Ms. Miller, and can you bring the jury
13 to the transaction that specifically -- or transactions that
14 underline the Count 100 of the indictment, the wire transfers.
15 I believe it's page 11.

16 BY MS. M. MILLER: (CONTINUING)

17 Q. Do you see that there, sir?

18 A. Yes.

19 Q. Okay. And can you tell the members of the jury where
20 are the -- where is the wire transaction that is the subject
21 of Count 100?

22 A. It's right here. Whoops.

23 Q. Should you do that?

24 A. Should I not have done that?

25 Q. Okay.

1 A. How do I... I don't know how to undo it. 02:28PM

2 Q. So, okay, we erased that. 02:28PM

3 MS. M. MILLER: Ms. Miller, can you just 02:28PM
4 highlight that portion of the bank record to make it easier 02:28PM
5 for me to see and for the jury to see, and then Special Agent 02:28PM
6 Khamvongsa doesn't have to -- zone in on it. I said 02:28PM
7 highlight, but I didn't mean that. 02:28PM

8 MS. S. MILLER: I did that by accident. 02:28PM

9 BY MS. M. MILLER: (CONTINUING) 02:28PM

10 Q. Okay. So we see the wire transfer. What is the date 02:28PM
11 of this wire transfer, sir? 02:29PM

12 A. September 4th, 2016 -- 2017, excuse me. 02:29PM

13 Q. Okay. And it says "ORG." What does that mean? 02:29PM

14 A. It's the originator or organization. 02:29PM

15 Q. Okay. And does that mean that company sent the money 02:29PM
16 into the Caledonian account? 02:29PM

17 A. Yes, Friesland Fishing Company, LLC sent that 02:29PM
18 money -- 02:29PM

19 Q. Okay. 02:29PM

20 A. -- to this account. 02:29PM

21 Q. And where it says "OBI," what does that mean? 02:29PM

22 A. Originating beneficiary information. 02:29PM

23 Q. And what is the originating beneficiary information? 02:29PM

24 A. It's identifying that the beneficiary is Hansen as 02:29PM
25 reflected in this bank statement. 02:29PM

Direct - Khamvongsa

1 Q. Okay. So just to recap for the jury, the bank
2 account that the money goes into from the lease is Caledonian,
3 which is an investment company; correct?

4 MR. MARTIN: Your Honor, I object to the leading.

5 THE COURT: All right.

6 MR. MARTIN: We don't need to recap for the jury.
7 She can ask him his next question.

8 THE COURT: Very well. The Court will sustain
9 the objection.

10 BY MS. M. MILLER: (CONTINUING)

11 Q. Which account did the money go into, sir?

12 A. It went to -- into Caledonian Agency, Inc. bank
13 account identified as investment.

14 Q. And who is identified as the beneficiary of those
15 funds?

16 MR. MARTIN: Asked and answered, Your Honor.

17 THE WITNESS: Hansen --

18 MR. MARTIN: Asked and answered, Your Honor.

19 THE COURT: All right. Sustained.

20 MS. M. MILLER: Okay.

21 BY MS. M. MILLER: (CONTINUING)

22 Q. And, when we look at Exhibit 829, which was already
23 admitted into evidence, do you see Caledonian on
24 Exhibit 829 --

25 A. Yes.

1 Q. -- Agency?

02:30PM

2 A. It's located there on the -- on my right, the far
3 right, and it's nowhere located anywhere near the 30 Vanuatu
4 international companies.

02:30PM

02:30PM

02:30PM

5 Q. Okay.

02:30PM

6 MS. M. MILLER: All right. We can back out of
7 that, Ms. Miller.

02:30PM

02:30PM

8 BY MS. M. MILLER: (CONTINUING)

02:30PM

9 Q. So, sir, who's the president of Dave's Helicopters?

02:30PM

10 A. It is Jon Walker.

02:30PM

11 Q. Who's the president of Caledonian Investment Company?

02:30PM

12 A. Mr. Jon Walker.

02:30PM

13 Q. Who's the president of Hansen Helicopters?

02:30PM

14 MR. MARTIN: Your Honor, these are all
15 cumulative --

02:31PM

02:31PM

16 THE WITNESS: Mr. Jon Walker.

02:31PM

17 THE COURT: I'm sorry?

02:31PM

18 MR. MARTIN: -- asked and answered, repetitive.

02:31PM

19 I object; cumulative, asked and answered, repetitive.

02:31PM

20 We've --

02:31PM

21 THE COURT: All right.

02:31PM

22 MR. MARTIN: -- we've done this for six weeks
23 now.

02:31PM

02:31PM

24 THE COURT: Counsel?

02:31PM

25 MS. M. MILLER: Well, Your Honor, if they want to

02:31PM

1 stipulate to it, we could not do it anymore. Then it will 02:31PM
2 become something the jury -- 02:31PM

3 THE COURT: Okay, but the objection -- 02:31PM

4 MS. M. MILLER: Doesn't even have to decide. 02:31PM

5 THE COURT: -- the objection is cumulative, 02:31PM
6 though. 02:31PM

7 MS. M. MILLER: Okay, it's not cumulative with 02:31PM
8 this particular witness with this particular testimony because 02:31PM
9 now we're talking about the wire fraud counts, and it's 02:31PM
10 important for the jury to see -- 02:31PM

11 MR. MARTIN: Your Honor, this -- this is another 02:31PM
12 speech. 02:31PM

13 THE COURT: All right. All right, okay. Any 02:31PM
14 further objections, Mr. Martin? 02:31PM

15 MR. MARTIN: No, Your Honor, it's cumulative. 02:31PM

16 THE COURT: All right. The Court will sustain 02:31PM
17 the objection as cumulative. Next question. 02:31PM

18 BY MS. M. MILLER: (CONTINUING) 02:31PM

19 Q. So let's look at Exhibit 726, which is the schedule 02:31PM
20 of billings and records. And if you look at page 21, I 02:31PM
21 believe it is, we can see the transactions that equal that 02:31PM
22 wire transfer. 02:32PM

23 MR. MARTIN: Is that a question, Your Honor? 02:32PM

24 THE COURT: I think it is. 02:32PM

25 MS. M. MILLER: We're looking at it. 02:32PM

1 THE COURT: Okay. 02:32PM

2 MS. M. MILLER: Ms. Miller, can you, please, 02:32PM

3 highlight the transaction for 14,100 -- 02:32PM

4 MR. MARTIN: Your Honor, I would ask her to ask 02:32PM
5 the witness a question and not make speeches. 02:32PM

6 MS. M. MILLER: I'm asking Ms. Miller to 02:32PM
7 highlight a portion of this -- 02:32PM

8 MR. MARTIN: She -- she -- 02:32PM

9 MS. M. MILLER: -- exhibit, Your Honor, so that 02:32PM
10 the jury -- 02:32PM

11 THE COURT: Okay. 02:32PM

12 MS. M. MILLER: -- could see it -- 02:32PM

13 THE COURT: That's fine. 02:32PM

14 MS. M. MILLER: -- and Your Honor could see it. 02:32PM
15 Thank you, Your Honor. 02:32PM

16 THE COURT: Let her -- she's asking Ms. Miller to 02:32PM
17 just get the exhibit up, so the Court will overrule the 02:32PM
18 objection at this time. 02:32PM

19 MS. M. MILLER: Thank you, Your Honor. 02:32PM

20 THE COURT: Go ahead. 02:32PM

21 BY MS. M. MILLER: (CONTINUING) 02:32PM

22 Q. So, Special Agent Khamvongsa, did you see the -- one 02:32PM
23 of the transactions that equals \$134,000 wire transfer? 02:32PM

24 A. Yes. 02:32PM

25 Q. And could you identify it for the jury? 02:32PM

Direct - Khamvongsa

1 A. Yes, if we look at the far right -- may I touch the
2 screen?

3 Q. Okay.

4 A. On 9/4/2015, \$14,193.52 was received, and it's
5 reflected in Hansen Helicopters' own records.

6 Q. Now, this was the record that who provided to you?

7 A. Hansen Helicopters.

8 Q. And, on the top of this record, what's the name of
9 the company that this is a billings and -- and schedule for?

10 A. Wilma's Flight Services, Inc.

11 Q. Okay. Now let's look at page 23.

12 THE COURT: This is the same Exhibit 726?

13 MS. M. MILLER: Yes, Your Honor, it's still
14 Exhibit 726.

15 THE COURT: All right.

16 BY MS. M. MILLER: (CONTINUING)

17 Q. And let's look at the next transaction that comprised
18 the \$134,219.92 wire transfer. Do you see it, sir?

19 A. Yes.

20 Q. And how much was that transaction?

21 A. Again, this is capturing another payment of \$40,000
22 received on 9/4/2015 for Friesland covering the invoice period
23 of May to June, 2015.

24 Q. Okay. And now let's look at page 25, same date,
25 September 4th, 2015, could you tell the members of the jury

Direct - Khamvongsa

1 what they see there, in terms of the amount of money paid from
2 the tuna boat company into the Caledonian account?

3 A. Friesland is paying \$40,000 -- or \$40,026.40 on
4 September 4th, 2015.

5 Q. Okay. And now let's look at page 28 the transaction
6 dated 9/4/15 between Friesland and what was deposited into the
7 Caledonian?

8 A. Again --

9 MS. MCCONWELL: Your Honor, I object to leading.

10 THE COURT: Overruled. Go ahead on this exhibit.
11 Go ahead.

12 THE WITNESS: Again, Friesland is making a
13 payment of \$40,000 on September 4th, 2015, for the invoice
14 period of July to August 2015.

15 BY MS. M. MILLER: (CONTINUING)

16 Q. So, when you have, in the Second Superseding
17 Indictment as the jury saw in Demonstrative Aid 43, the total
18 of 134,291.92, these are the transactions that comprise that
19 total amount?

20 A. Yes.

21 Q. Okay. Did you conduct the same analysis for each of
22 the counts in the Second Superseding Indictment indictment?

23 A. I did.

24 Q. Okay.

25 MS. M. MILLER: Ms. Miller, could we go back to

1 Demonstrative Aid 43 and look at Count 101. 02:35PM

2 BY MS. M. MILLER: (CONTINUING) 02:35PM

3 Q. Okay. Could you read to the jury Count 101, please? 02:35PM

4 It should be right in front of you. 02:35PM

5 A. December 1st, 2015, wire transfer from Golden Village 02:35PM

6 Global Limited in the amount of \$194,183.52. 02:35PM

7 Q. Okay. Could give me that amount? I'm sorry, 194? 02:36PM

8 A. 194,18 -- \$194,183.52. 02:36PM

9 Q. Okay. And could you tell the members of the jury if 02:36PM

10 you identified which helicopter was used to generate that 02:36PM

11 income from the tuna boat company? 02:36PM

12 A. N501FC. 02:36PM

13 Q. And let's go to -- 02:36PM

14 A. F as in Foxtrot. 02:36PM

15 Q. Oh, F as in Foxtrot? F -- FC? 02:36PM

16 A. FC. 02:36PM

17 Q. Thank you. 02:36PM

18 A. Foxtrot Charlie. 02:36PM

19 Q. And could we go to Exhibit 1252, which is the 02:36PM

20 registration summary chart, and could you tell the members of 02:37PM

21 the jury who the registered owner was of that aircraft at this 02:37PM

22 time in December of 2015? 02:37PM

23 MS. M. MILLER: And could you highlight that, 02:37PM

24 Ms. Miller, that portion. Excellent. 02:37PM

25 BY MS. M. MILLER: (CONTINUING) 02:37PM

Direct - Khamvongsa

1 Q. Okay. Could you tell the members of the jury, sir,
2 who is the registered owner of that helicopter at the time
3 that this particular lease was in effect?

4 A. Eddie Air, Inc.

5 Q. And who is the individual who registered it as Eddie
6 Air, Inc.?

7 A. Jon Walker.

8 Q. Where did the money go from this lease, into which
9 account?

10 A. It went into the Caledonian -- excuse me, Caledonian
11 Agency, Inc. bank account with Bank of Hawaii.

12 Q. Now, in the first count and in this count, we talked
13 about two helicopters. I'd like you to look at what has been
14 entered into evidence as Government's Exhibit 645. Do you
15 recall this piece of evidence? And this has already want been
16 entered into evidence.

17 A. Yes.

18 Q. And could you tell the members of the jury if we go
19 to the next page, are the aircraft that you've identified that
20 we're talking about these wire fraud counts, are they on this
21 e-mail communication?

22 A. Yes, they are. I could point out them if you'd like.

23 Q. Yes, please.

24 A. They're identified in Item No. 4 and 5.

25 Q. Okay. And four was Count 100 we just saw?

1 A. Correct. 02:39PM

2 Q. Five is Count 101, which we just saw? 02:39PM

3 A. Correct. 02:39PM

4 Q. And tell the members of the jury what about this 02:39PM

5 particular piece of evidence, as an investigator with the IRS, 02:39PM

6 did you view, in terms of these wire fraud counts? 02:39PM

7 A. Well, this helped me establish that the helicopters 02:39PM

8 that -- 02:40PM

9 MR. MARTIN: Your Honor, that's -- "did he view." 02:40PM

10 I object to the question. I mean, it just opens the door for 02:40PM

11 him to give a narrative. 02:40PM

12 THE COURT: I'm sorry? 02:40PM

13 MR. MARTIN: I didn't understand the question. 02:40PM

14 THE COURT: Okay. Okay. Repeat the question. 02:40PM

15 BY MS. M. MILLER: (CONTINUING) 02:40PM

16 Q. Sure. What is it about this piece of evidence that 02:40PM

17 -- well, first, let's go back and look at what this piece of 02:40PM

18 evidence is. This is what? What kind of evidence is this? 02:40PM

19 A. This is evidence of the -- 02:40PM

20 Q. No, what is it? Is it an e-mail? 02:40PM

21 A. Oh, it's an e-mail. Excuse me. 02:40PM

22 Q. Who is it to? 02:40PM

23 A. This e-mail is to Timothy Cislo. 02:40PM

24 Q. Who is it from? 02:40PM

25 A. Turner -- Kapp Turner, or Turner Kapp. 02:40PM

Direct - Khamvongsa

1 Q. Is it from Rufus with copying Turner? 02:40PM

2 A. It could be -- yes, it is. 02:40PM

3 Q. Okay. And the date of this? 02:40PM

4 A. February 11th, 2015. 02:40PM

5 Q. Okay. And could you please read this e-mail to the 02:40PM
6 jury and then tell the jury why this e-mail has anything to do 02:40PM
7 with the wire fraud count. 02:40PM

8 A. "Hey, Tim, I brain-farted getting these to you. 02:41PM

9 Sorry about that. Having Walker with us for a month 02:41PM

10 immediately followed by the DOIPO Boys onslaught has left me a 02:41PM

11 bit dingier than usual. What paper do you want me -- or 02:41PM

12 Turner to have ready? Here are the machines, Hansen 02:41PM

13 Helicopters restricted aerial survey, number, type, serial 02:41PM
14 number." 02:41PM

15 And it goes -- do you want me to read the list of 02:41PM
16 helicopters? 02:41PM

17 Q. No. 02:41PM

18 A. And it identified ten helicopters. "Much 02:41PM
19 appreciated, Rufus." 02:41PM

20 Q. Now, let's go to the e-mail that followed this on the 02:41PM
21 first page of this document on the bottom there, and what do 02:41PM
22 we see there? 02:41PM

23 A. Another e-mail, the response from Timothy Cislo. 02:41PM

24 Q. Okay. And what does it say? 02:41PM

25 A. "Rufus, all we need is an FAA Form 8130-6 for each 02:41PM

1 one. When do the current certificates expire? I'm looking at
2 May or June to have a sign fest."

3 Q. Okay.

4 A. "Regards, Tim."

5 Q. So can you please explain to the members of the jury
6 why this particular e-mail has anything to do with the wire
7 fraud counts?

8 MR. MARTIN: Objection. Speculation, Your Honor.

9 MS. M. MILLER: Based on your investigation, sir.

10 MR. MARTIN: Objection; speculation.

11 THE COURT: Overruled -- I mean, I'm sorry,
12 sustained. The Court will sustain that objection.

13 BY MS. M. MILLER: (CONTINUING)

14 Q. Based on your investigation, sir, did you connect up
15 these aircraft with the money that was coming in from the
16 companies?

17 A. Yes.

18 Q. Based on your review of the documents, what did Jon
19 Walker ever communicate to the tuna boat companies about the
20 fact that he had bribed an inspector to obtain those --

21 MR. MARTIN: Your Honor, I object to the leading
22 form of the question that -- that --

23 BY MS. M. MILLER: (CONTINUING)

24 Q. What did --

25 THE COURT: Okay, wait, wait. Just a minute.

1 Let me -- let me -- okay, wait. Just rephrase the question. 02:42PM

2 MS. M. MILLER: Yes, Your Honor. 02:42PM

3 BY MS. M. MILLER: (CONTINUING) 02:42PM

4 Q. What did Jon Walker communicate to the tuna boat 02:42PM
5 companies in the leases so that they would know that the 02:42PM
6 helicopters they were leasing had airworthiness certificates 02:43PM
7 as a result of a bribe? 02:43PM

8 MR. MARTIN: Your Honor, I object to the 02:43PM
9 question. It assumes facts that -- up to the jury to decide. 02:43PM
10 It assumes -- it assumes a negative right off the bat. 02:43PM

11 THE COURT: All right. The Court will sustain 02:43PM
12 the objection. Rephrase. 02:43PM

13 MS. M. MILLER: Yes, Your Honor. 02:43PM

14 BY MS. M. MILLER: (CONTINUING) 02:43PM

15 Q. Could you tell the members of the jury what 02:43PM
16 information was provided -- did you -- 02:43PM

17 First of all, did you review the leases that pertain 02:43PM
18 to each of these transactions? 02:43PM

19 A. Yes. 02:43PM

20 Q. Okay. What information was in those leases that let 02:43PM
21 the tuna boat companies know that they were paying for 02:43PM
22 aircraft that had airworthiness certificates as a result of a 02:43PM
23 bribe? 02:43PM

24 MR. MARTIN: Your Honor, I object to the 02:43PM
25 question. It assumes a fact that's up to the jury to decide. 02:43PM

1 It assumes a negative. It's an improper question. It's
2 leading.

3 MS. M. MILLER: Your Honor --

4 THE COURT: Okay. Could the Court --

5 MS. M. MILLER: -- Mr. Cislo already testified --

6 THE COURT: Wait, wait. The Court --

7 MS. M. MILLER: -- he --

8 THE COURT: The Court will sustain the objection
9 based on speculation. Next -- just rephrase.

10 BY MS. M. MILLER: (CONTINUING)

11 Q. Let's look at Exhibit 166, please. Do you recognize
12 Exhibit 166?

13 A. Yes.

14 Q. What is it?

15 A. This is a pilot-mechanic list that I obtained from
16 Hansen Helicopters through the search warrant.

17 MS. M. MILLER: Your Honor, at this time the
18 Government would offer into evidence what has previously
19 marked as Exhibit 166.

20 THE COURT: Counsels, any objections?

21 MR. MARTIN: May I have just a second, Your
22 Honor?

23 THE COURT: Yes, you may.

24 (Pause.)

25 MR. MARTIN: May I ask a --

1 THE COURT: Yes. 02:45PM

2 MR. MARTIN: -- question in aid -- 02:45PM

3 THE COURT: Yes. 02:45PM

4 MR. MARTIN: -- of maybe or maybe not an
5 objection? 02:45PM

6 THE COURT: Right. 02:45PM

7 02:45PM

8 VOIR DIRE EXAMINATION 02:45PM

9 BY MR. MARTIN: 02:45PM

10 Q. Government's Exhibit -- 02:45PM

11 THE COURT: Can you speak into the mic? Bring
12 the mic a little closer there, Mr. Martin. Yes. Go ahead. 02:45PM

13 BY MR. MARTIN: (CONTINUING) 02:45PM

14 Q. Government's Exhibit 166, sir, did you obtain that? 02:45PM

15 A. Yes. 02:45PM

16 Q. Pursuant to a grand jury subpoena or a search
17 warrant? 02:45PM

18 A. No, this was obtained by the search warrant --
19 through the search warrant. 02:45PM

20 Q. Okay. 02:45PM

21 MR. MARTIN: No objection. 02:45PM

22 THE COURT: No objection. 02:45PM

23 Ms. McConwell? 02:45PM

24 MS. MCCONWELL: Well, I'm -- I'm going to object
25 to the -- the relevance of this. I don't think it's relevant 02:46PM

1 to the line -- well, first of all, I don't think -- it 02:46PM
2 shouldn't come into Jon -- or to Hansen Helicopters because 02:46PM
3 we're not in any of these counts, but it doesn't appear to be 02:46PM
4 relevant to the Count 100 or 101, which is the counts which 02:46PM
5 the line of questioning is. The dates don't match. 02:46PM

6 MS. M. MILLER: Okay. First of all, as to 02:46PM
7 relevance, Your Honor, this was obtained at Hansen Helicopters 02:46PM
8 pursuant to the search warrant. 02:46PM

9 Secondly, if you look at very top of the 02:46PM
10 document, it identifies it as being a Hansen Helicopters crew 02:46PM
11 and vessel list. 02:46PM

12 Thirdly, we are talking about -- we're talking 02:46PM
13 about aircraft N501FC. If you look at paragraph -- Row 33 on 02:46PM
14 this document, it shows N501FC. It shows the name of the tuna 02:46PM
15 boat company that that particular aircraft was leased to, and 02:46PM
16 then it identifies the name of the individuals who worked on 02:46PM
17 that aircraft, both as pilot and mechanic, and the dates that 02:46PM
18 they worked on it, which coincide, Your Honor, with this 02:47PM
19 particular wire fraud count. That's why it's relevant and 02:47PM
20 that's why it should comment in. 02:47PM

21 THE COURT: All right. 02:47PM

22 MS. MCCONWELL: Okay. So the wire -- 101 is -- 02:47PM
23 is a wire fraud count that's dated December 1st, 2015, and 02:47PM
24 this 166 is a pilot-mechanic list date 8/15/16. I think that 02:47PM
25 its prejudicial value outweighs any possible probative value 02:47PM

1 because it's confusing. This -- this pilot-mechanic's list is
2 about a year after the counts that she's asking Mr. Khamvongsa
3 about right now --

4 MS. M. MILLER: No, it's not, Your Honor.

5 MS. MCCONWELL: -- so I think it confusing.

6 MS. M. MILLER: If you -- if you --

7 THE COURT: Okay.

8 MS. M. MILLER: If you look at the date to the
9 right of the mechanic, it specifically says that that mechanic
10 started working on this aircraft in October of 2015. We're
11 talking about a wire transfer that occurred in December of
12 2015. How is that a year after?

13 MS. MCCONWELL: Well, then --

14 MS. M. MILLER: And it also shows --

15 THE COURT: Okay.

16 MS. M. MILLER: -- that this person worked until
17 10/19/16. So, again, these are transactions that occurred in
18 12 of '15. How is that outside the dates?

19 MS. MCCONWELL: Then I think it's cumulative
20 because they've already admitted Exhibit 183, which is a pilot
21 and mechanic's list which covers the same period.

22 THE COURT: All right. The Court will overrule
23 the objection on both counts. You may proceed.

24 MS. M. MILLER: May I publish it to the jury,
25 Your Honor?

Direct - Khamvongsa

1 THE COURT: You may.

02:48PM

2 BY MS. M. MILLER: (CONTINUING)

02:48PM

3 Q. And, Special Agent Khamvongsa, could you please tell
4 the members of the jury what we're seeing in Row 33 on this
5 document?

02:48PM

02:48PM

02:48PM

6 A. Yes, what we're seeing is that N51FC is assigned to
7 the tuna vessel -- or the vessel SHUNFA8. And then we see the
8 name of the pilot, Francisco Enriquez, the contract start date
9 and the contract end date of 3-7-2016 to 3-7-2017. Then we
10 see the mechanic, Vilamar Batara, Jr. The contract --
11 start -- starting contract date of October 19th, 2015, to the
12 contract date of 10-19-2016.

02:48PM

02:48PM

02:48PM

02:48PM

02:49PM

02:49PM

02:49PM

13 Q. So as to the mechanic, Mr. Batara, Jr., was he the
14 mechanic for this particular aircraft during the period of
15 time that these transactions were taking place?

02:49PM

02:49PM

02:49PM

16 A. Yes.

02:49PM

17 Q. And was he certificated by the FAA, sir?

02:49PM

18 A. No.

02:49PM

19 Q. Okay. Now let's please look at the top of this
20 document before we leave this document.

02:49PM

02:49PM

21 MS. M. MILLER: Ms. Miller, the very top of the
22 document where it identifies the heading. Yes, thank you.

02:49PM

02:49PM

23 BY MS. M. MILLER: (CONTINUING)

02:49PM

24 Q. What is the heading of this document, sir?

02:49PM

25 A. Hansen Helicopters Air Crew Vessel Contact List,

02:49PM

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1 total aircraft 46, air crew vessel contact list 7-16-2016.

02:49PM

2 Q. Okay. Thank you.

02:49PM

3 MS. M. MILLER: Now, Ms. Miller, could you,
4 please -- could you please go to the schedule of billings and
5 collections Exhibit 726, and could you go to page 38.

02:49PM

02:49PM

02:50PM

6 THE COURT: Sorry, 726-8, this has already been
7 admitted?

02:50PM

02:50PM

8 MS. M. MILLER: Thirty-eight. This has already
9 been admitted, Your Honor, yes.

02:50PM

02:50PM

10 THE COURT: Thirty-eight. Okay.

02:50PM

11 MS. M. MILLER: Could you go to 38 please and far
12 right column, December 1st, 2015.

02:50PM

02:50PM

13 BY MS. M. MILLER: (CONTINUING)

02:50PM

14 Q. Special Agent Khamvongsa, could you please tell the
15 members of the jury which of these transactions constitute the
16 told of 194,193.52 that is in Count 101?

02:50PM

02:50PM

02:50PM

17 A. So if you look at the billing schedule, it identifies
18 the vessel SHUNFA8 that Golden Village Global made a basement
19 for SHUNFA8, and there's three different invoice items.
20 There's the three-month deposit and then there's the lease
21 period of October 21st to October -- excuse me -- October 21st
22 to October 31st, 2015, and then the other period is
23 November 1st, through November 30th of 2015. And if we look
24 on far right column, we see that the date paid all are
25 12-1-2015, and it identifies individuals amounts. So for the

02:51PM

02:51PM

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02:51PM

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1 three-month deposit it's \$120,000, \$120,000. Then the invoice
2 period of October 21st to October 31st, it's \$34,193.52. And
3 then the invoice period of November 1st through November 30th,
4 2015, we see that it's \$40,000. So a lump sum payment of
5 \$194,193.52, it corroborates what's reflected in the bank --
6 bank statement.

7 Q. So just so the jury is clear, we're looking at the
8 schedule of billings that Hansen Helicopters produced to you;
9 correct?

10 A. Yes.

11 Q. Now let's look at the bank records, let's look at
12 Exhibit 22 which has not been entered into evidence yet. Do
13 you see Exhibit 22?

14 A. Yes.

15 Q. Is that a true and correct copy of the bank records
16 that you received pursuant to a subpoena in this case?

17 A. Yes.

18 Q. And is it for the time period that we're discussing
19 with this particular count?

20 A. Yes.

21 MS. M. MILLER: Your Honor, at this time I would
22 offer into evidence what has been previously marked as
23 Government's Exhibit 22.

24 THE COURT: And is it more than one page?

25 MS. M. MILLER: It is.

1 THE COURT: How many pages? 02:53PM

2 MS. M. MILLER: Twenty-three, Your Honor. 02:53PM

3 THE COURT: All right. So 22-1 through 23? 02:53PM

4 MS. M. MILLER: Yes, Your Honor. 02:53PM

5 THE COURT: Any objections, Counsels? 02:53PM

6 MS. MCCONWELL: Could -- could we limit this 02:53PM

7 to -- to the relevant pages? 02:53PM

8 THE COURT: We could. You can ask, yeah. I 02:53PM

9 mean, they're -- they're asking for a limitation to the 02:53PM

10 relevant pages. Any objections to that? 02:53PM

11 MS. M. MILLER: No objection -- well, yes, Your 02:53PM

12 Honor. I -- I don't think that's necessary. This isn't a 02:53PM

13 voluminous document, and I think it is relevant for the jury 02:53PM

14 to see the income coming into the account. 02:53PM

15 MR. MARTIN: And we only 2900 Exhibits, Your 02:53PM

16 Honor, so I -- 02:53PM

17 THE COURT: Well -- 02:53PM

18 MS. M. MILLER: Your Honor, I wish that -- 02:53PM

19 THE COURT: No, we don't -- 02:53PM

20 MS. M. MILLER: -- the Court would -- 02:53PM

21 THE COURT: Yeah. 02:53PM

22 MS. M. MILLER: -- instruct Mr. Martin to please 02:53PM

23 stop. He doesn't want me to make these extraneous -- 02:53PM

24 THE COURT: All right. 02:53PM

25 MS. M. MILLER: -- comments. 02:53PM

1 THE COURT: You both are making extraneous 02:53PM
2 comments, okay -- 02:53PM
3 MS. M. MILLER: But -- but -- 02:53PM
4 THE COURT: -- so you're both guilty of it -- 02:53PM
5 MS. M. MILLER: -- it goes both ways. 02:53PM
6 THE COURT: -- so the Court -- hold on, I agree. 02:53PM
7 So the Court will sustain the objection. 02:53PM
8 MR. MARTIN: Your Honor -- 02:53PM
9 Yes, Mr. McConwell -- Mr. Martin, we accept your 02:53PM
10 apology. Go ahead. 02:54PM
11 MS. M. MILLER: So I will move to admit page 1 02:54PM
12 which shows the jury -- 02:54PM
13 THE COURT: Okay. Wait just -- 02:54PM
14 MS. M. MILLER: -- the information about -- 02:54PM
15 THE COURT: I already know what the motion -- 02:54PM
16 MS. M. MILLER: -- this account. 02:54PM
17 THE COURT: -- is. Okay, wait, wait. 02:54PM
18 Any other objection, Ms. McConwell? 02:54PM
19 MS. MCCONWELL: Well, I wasn't sure if she's -- 02:54PM
20 that's we're going to do that or we're not going to do that. 02:54PM
21 THE COURT: No, she's indicated she prefer to not 02:54PM
22 limit it to the pages that it focuses in on. 02:54PM
23 MS. MCCONWELL: Well, I -- it contains 02:54PM
24 information about a lot of individuals who are paid through 02:54PM
25 this account that are not relevant to this -- this jury 02:54PM

Direct - Khamvongsa

1	trial --	02:54PM
2	MS. M. MILLER: Your Honor --	02:54PM
3	MS. MCCONWELL: -- and so --	02:54PM
4	THE COURT: Okay. Hold on. Hold on.	02:54PM
5	MS. M. MILLER: I'm withdrawing.	02:54PM
6	THE COURT: Hold on. Let me hear -- let me	02:54PM
7	hear --	02:54PM
8	MS. MCCONWELL: -- just the relevant pages.	02:54PM
9	THE COURT: -- the objection.	02:54PM
10	MS. M. MILLER: I'm just -- I'm agreeing with	02:54PM
11	her. I'll just --	02:54PM
12	THE COURT: Oh, okay --	02:54PM
13	MS. M. MILLER: -- introduce --	02:54PM
14	THE COURT: -- okay, okay.	02:54PM
15	MS. M. MILLER: I want to move on for the jury --	02:54PM
16	THE COURT: Okay. She agrees with you.	02:54PM
17	MS. M. MILLER: -- so --	02:54PM
18	THE COURT: Okay. Got it.	02:54PM
19	MS. M. MILLER: -- let's just introduce page 1,	02:54PM
20	which shows the jury what this document is.	02:54PM
21	THE COURT: Motion -- okay. There's a motion to	02:54PM
22	admit 22-1. No objections, Ms. McConwell?	02:54PM
23	MR. MARTIN: No objection.	02:54PM
24	THE COURT: Mr. Martin?	02:54PM
25	Okay. Admitted. Yes, you may publish.	02:54PM

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1 MS. M. MILLER: And then I believe page 21 is the 02:54PM
2 one that has the transaction. Once I verify that, I will move 02:54PM
3 to admit just that page so that we could move on. 02:55PM

4 THE COURT: Okay. So 22-1 and 20[sic] is 02:55PM
5 admitted without objection. Why don't you guys look at 22-21 02:55PM
6 now. 02:55PM
7 (Exhibit 22-1, 22-20 admitted.) 02:55PM

8 MS. M. MILLER: Can you go to 21? And can you 02:55PM
9 hone in on the 194? It's towards the bottom. Yeah, there you 02:55PM
10 go. 02:55PM

11 THE COURT: Yes? 02:55PM

12 MS. M. MILLER: Any objection to that, Your 02:55PM
13 Honor? 02:55PM

14 THE COURT: I think they're looking. They're 02:55PM
15 looking. They're speed reading there. 02:55PM

16 MR. MARTIN: I've already said I have no 02:55PM
17 objection. 02:55PM

18 THE COURT: Oh, yeah. 02:55PM

19 MR. MARTIN: I'm sorry. 02:55PM

20 THE COURT: But -- but -- okay, no objections. 02:55PM

21 Ms. McConwell? 02:55PM

22 MS. MCCONWELL: Well, yeah, I mean, it's only to 02:55PM
23 Mr. Walker, so -- 02:55PM

24 THE COURT: All right. So objections -- 22-1 and 02:55PM
25 22-21 will be admitted without objection. You may proceed. 02:55PM

1 (Exhibit 22-21 admitted.) 02:55PM

2 MS. M. MILLER: Thank you, Your Honor. May I 02:55PM
3 publish? 02:55PM

4 THE COURT: Yes, you may publish. 26. 02:55PM

5 MS. M. MILLER: So Ms. Miller, yes, thank you for 02:55PM
6 starting the first page. 02:56PM

7 BY MS. M. MILLER: (CONTINUING) 02:56PM

8 Q. And, Special Agent Khamvongsa, once this gets on the 02:56PM
9 screen -- okay, wonderful. So can you tell the members of the 02:56PM
10 jury how you obtained this information, please? 02:56PM

11 A. I obtained -- I obtained it through the grand jury 02:56PM
12 subpoena. 02:56PM

13 Q. Okay. And, again, the name of the company that is 02:56PM
14 identified in this bank record? 02:56PM

15 A. Caledonian Agency, Inc. 02:56PM

16 Q. And that was the investment company, sir? 02:56PM

17 A. Yes. 02:56PM

18 Q. The address of the company, do you recognize that? 02:56PM

19 A. Yes. 02:56PM

20 Q. And what do you recognize about that address? 02:56PM

21 A. It's the same address belonging to Hansen 02:56PM

22 Helicopters -- 02:56PM

23 Q. Okay. 02:56PM

24 A. -- here in Guam. 02:56PM

25 Q. And let's look at page 21 of this document, and, 02:56PM

Direct - Khamvongsa

1 Ms. Miller's going to highlight the transaction on 12-1-2015.

02:56PM

2 Do you recognize this?

02:56PM

3 A. Yes.

02:56PM

4 Q. And is this wire transfer reflected in the Hansen

02:56PM

5 Helicopters' schedule of billings that we just saw previously?

02:57PM

6 A. Yes.

02:57PM

7 MS. M. MILLER: Okay, thank you, Ms. Miller.

02:57PM

8 BY MS. M. MILLER: (CONTINUING)

02:57PM

9 Q. Now, if we go back to Demonstrative Aid 43 again, and

02:57PM

10 let's look at Count 103. And could you read 103 to the jury,

02:57PM

11 please?

02:57PM

12 A. September 2nd, 2016, wire transfer from Ocean

02:57PM

13 Conquest, LLC in the amount of \$234,980.

02:57PM

14 Q. Okay. And did you see the information in the

02:57PM

15 schedule of billings and collections that you received from

02:57PM

16 Hansen Helicopters?

02:57PM

17 A. Yes.

02:57PM

18 Q. Let's look at Exhibit 726, page 67, please. Okay.

02:57PM

19 Sir, do you see the schedule here that corresponds with that

02:58PM

20 particular count?

02:58PM

21 A. Yes.

02:58PM

22 Q. And can you tell the members of the jury, what are

02:58PM

23 the transactions that equal that 290 -- \$234,980 that is

02:58PM

24 reflected in that wire fraud transaction?

02:58PM

25 A. So there's six tuna boats identified here in this

02:58PM

Direct - Khamvongsa

1 schedule of billings and collections identified as Ocean
2 Challenger, Ocean Expedition, Ocean Warrior, Ocean Encounter,
3 Ocean Conquest, Ocean Galaxy, which made a lump sum payment of
4 \$230,980, and it's reflected individually for each tuna boat
5 company covering the period of September 2nd, to October 1st,
6 2016.

7 Q. Okay. And, again, this is a record received from the
8 Defendant Hansen Helicopters?

9 A. Yes.

10 Q. Now, let's look at Exhibit 725, which is another
11 record received from Hansen Helicopters, and I'd like you to
12 look specifically at pages 13 and 15 of that exhibit so that
13 you can identify the aircraft that were used in those leases.
14 Do you see those there, sir?

15 A. Yes.

16 Q. And could you read those for the jury, please?

17 A. N911GP is assigned to Ocean Challenger. N336SP is
18 assigned to Ocean Warrior. N9938A is assigned to Ocean
19 Expedition. N1156X is assigned to Ocean Encounter. N810M is
20 assigned to Ocean Conquest. N26892 is assigned to Ocean
21 Galaxy.

22 MS. M. MILLER: Okay. Now, Ms. Miller, if we
23 could keep that up and move it over and pull up Exhibit 1252.
24 Is that asking too much?

25 MS. S. MILLER: I'll try.

1 MS. M. MILLER: We'll try.

03:00PM

2 BY MS. M. MILLER: (CONTINUING)

03:00PM

3 Q. What I'd like you to do, sir, is let the jury know
4 who registered those helicopters that were used in these
5 leases.

03:00PM

03:00PM

03:00PM

6 (Counsel conferred.)

03:00PM

7 MS. M. MILLER: And just pull up 1252. I'm
8 writing the numbers on the board, so...

03:01PM

03:01PM

9 BY MS. M. MILLER: (CONTINUING)

03:01PM

10 Q. Okay. So we're going to pull up Exhibit 1252, which
11 is the registration information, okay, and let's start with
12 the first helicopter, 9911GP. Can you tell the members of the
13 jury, who is the registered owner of that helicopter during
14 the payment from the lease?

03:01PM

03:01PM

03:01PM

03:01PM

03:01PM

15 A. South Pacific Spotters, Inc.

03:01PM

16 Q. Then if we look at November 336SP, can you tell the
17 members of the jury who was the registered owner of that
18 helicopter during the time of the lease?

03:01PM

03:01PM

03:01PM

19 And, by the way, who was the person that you just saw
20 that registered that helicopter with the FAA?

03:01PM

03:02PM

21 A. Jon Walker.

03:02PM

22 Q. Okay. Now, N336SP, who was the registered owner of
23 that aircraft during the time of this transaction?

03:02PM

03:02PM

24 A. Alpha Air, Inc.

03:02PM

25 Q. And who registered it with the FAA under Alpha Air,

03:02PM

1 Inc?

03:02PM

2 A. Jon Walker.

03:02PM

3 Q. Now, let's look at the next aircraft, which is
4 N9938A, and could you tell the members of the jury which
5 company was that aircraft registered under?

03:02PM

03:02PM

03:02PM

6 A. South Pacific Spotters, Inc.

03:02PM

7 Q. And who registered it?

03:02PM

8 A. Jon Walker.

03:02PM

9 Q. Now, could you look at N1156X, and could you tell the
10 members of the jury which company was that aircraft registered
11 under at the time of the lease?

03:02PM

03:03PM

03:03PM

12 A. Walker Helicopters, Inc.

03:03PM

13 Q. And who's the person who registered it that way with
14 the FAA?

03:03PM

03:03PM

15 A. Jon Walker.

03:03PM

16 Q. All right. Let's look at N810M, and could you tell
17 the members of the jury which company was that aircraft
18 registered under during the time of this transaction?

03:03PM

03:03PM

03:03PM

19 A. Bravo Air, Inc.

03:03PM

20 Q. And who registered it?

03:03PM

21 A. Jon Walker.

03:03PM

22 Q. And the last helicopter for this transaction, N26892,
23 can you tell the members of the jury which company was that
24 helicopter registered under?

03:03PM

03:04PM

03:04PM

25 A. Wilma's Flight Service, Inc.

03:04PM

Direct - Khamvongsa

1 Q. And who registered it under Wilma's Flight Service,
2 Inc?

3 A. Jon Walker.

4 Q. Now, sir, in addition to reviewing the list of
5 aircraft and boats in 725 and reviewing the schedule of
6 billings that the Defendant Hansen Helicopters provided in 726
7 and looking at the registration information, did you also
8 determine who the mechanics were for each of these helicopters
9 during the relevant period of time?

10 A. Yes.

11 Q. Could you tell the jury how you made that
12 determination?

13 A. Based upon the process that we've gone through thus
14 far, once identifying the helicopters, I took that information
15 and reviewed the pilot-mechanics list to determine who was
16 assigned that the point in time to those particular
17 helicopters.

18 Q. And when you made that determination, what did you do
19 then?

20 A. I then compared that information to FAA records,
21 and -- and then I made a determination from there as to
22 whether or not they were certificated with the FAA.

23 Q. Were any of the mechanics used during this period of
24 time for these leases certificated by the FAA?

25 A. No.

Direct - Khamvongsa

1 Q. Okay. Let's look at what has been previously marked
2 as Exhibit 2900-1976. Do you see that document, sir?

3 A. Yes.

4 Q. Is that a true and correct copy of the lease that you
5 reviewed?

6 A. Yes.

7 MS. M. MILLER: Your Honor, at this time, I would
8 offer into evidence what has been previously marked as
9 Government's Exhibit 2900-1976.

10 THE COURT: Counsels?

11 MR. MARTIN: Just a moment, Your Honor.

12 THE COURT: No problem.

13 (Pause.)

14 THE COURT: And how many pages is that?

15 MS. M. MILLER: It is -- all of these leases are
16 six pages, Your Honor, so I believe it goes through 81 --
17 981 -- 1981; is that correct? 1981.

18 (Pause.)

19 MR. MARTIN: Your Honor, on behalf of Mr. Walker,
20 I don't object to 1976 through, I believe it's 1918; is that
21 right?

22 THE COURT: That's correct, yeah.

23 All right. Ms. McConwell?

24 MS. MCCONWELL: It's -- I would object that it's
25 on a completed contract but it's not going to come -- it's

1 not -- it's not a completed document. It's not been fully
2 executed. So I would object to it on that basis, but it would
3 only come in as to Jon Walker. It will not come in as to
4 Hansen Helicopters --

5 THE COURT: All right.

6 MS. MCCONWELL: -- because we're not in these
7 counts.

8 THE COURT: Okay. So with regard to -- the Court
9 will admit 2900-1976 through 1981 and there's no objection by
10 Mr. Walker's Counsel, so that's admitted without objection.
11 (Exhibit 2900-1976 to 1981 admitted.)

12 THE COURT: With regard to the objection made by
13 Ms. McConwell, the Court will overrule that objection.

14 You may proceed.

15 MS. M. MILLER: And, Ms. Miller, could you,
16 please, highlight the top portion of the document after we
17 publish it. May I publish it to the jury, Your Honor?

18 THE COURT: Yes, you may.

19 MS. M. MILLER: Thank you.

20 And could you, please, pull out the top portion
21 of the document. Okay.

22 BY MS. M. MILLER: (CONTINUING)

23 Q. So, Special Agent Khamvongsa, is this lease -- what
24 is the date of this lease?

25 A. June 17th, 2016.

Direct - Khamvongsa

1 Q. And who is identified as the lessor? 03:09PM

2 A. Wilma's Flight Service, Inc. 03:09PM

3 Q. All right. Now, let's go down to the helicopter that 03:09PM
4 is identified in this lease. What is the registration of the 03:09PM
5 helicopter that is involved in this lease? 03:09PM

6 A. N911GP. 03:09PM

7 Q. Now, sir, could you please remind the jury who is 03:09PM
8 identified as the registered owner of this helicopter -- 03:09PM

9 A. South -- 03:09PM

10 Q. -- during this period of time? 03:09PM

11 A. South Pacific -- South Pacific Spotter. 03:09PM

12 Q. But who's identified as the lessor in this particular 03:09PM
13 lease? 03:09PM

14 A. Wilma's Flight Service. 03:09PM

15 Q. Can you go to Section 8 of the lease, please, and 03:10PM
16 could you read that to the jury, please? 03:10PM

17 A. "The registration and title to the aircraft shall be 03:10PM
18 in the name of the lessor and the aircraft at all times during 03:10PM
19 the term of this agreement or automatic renewals shall bear 03:10PM
20 internationally-recognized registration markings." 03:10PM

21 Q. Was the name of the lease in the name of the lessor? 03:10PM

22 A. No. 03:10PM

23 Q. Or the registered owner? 03:10PM

24 A. It did -- it did not reflect what was reflected in 03:10PM
25 the FAA registry. 03:10PM

1 Q. Okay. 03:10PM

2 A. "It" being the contract. 03:10PM

3 Q. Okay. Now, let's look at Exhibit 2935, please. 03:10PM

4 MS. M. MILLER: And, Ms. Santos, just to verify, 03:10PM

5 we have on our list that that has already been admitted, 2935. 03:10PM

6 THE CLERK: Yes. 03:11PM

7 MS. M. MILLER: Okay, 2935, and, Ms. Miller, 03:11PM

8 specifically page 22. 03:11PM

9 MS. MCCONWELL: I have that as to Jon Walker 03:11PM

10 only. 03:11PM

11 THE COURT: I'm sorry, what was -- so what is the 03:11PM

12 question? 03:11PM

13 MS. M. MILLER: I'm sorry, Your Honor? 03:11PM

14 THE COURT: What was it -- what is it? She's 03:11PM

15 looking for the document? 03:11PM

16 MS. M. MILLER: No, we're pulling up the Document 03:11PM

17 2935. It's already been admitted into evidence. 03:11PM

18 THE COURT: Okay, all right. 03:11PM

19 MS. M. MILLER: And I asked Ms. Miller to go 03:11PM

20 to -- 03:11PM

21 THE COURT: All right. 03:11PM

22 MS. M. MILLER: -- page 22 which reflects the 03:11PM

23 transactions that we're talking about in this particular 03:11PM

24 count, Your Honor. 03:12PM

25 THE COURT: Okay. 03:12PM

Direct - Khamvongsa

1 MS. M. MILLER: Okay. Ms. Miller, could you
2 please highlight the transaction that shows the -- yes, thank
3 you so much.

4 BY MS. M. MILLER: (CONTINUING)

5 Q. Special Agent Khamvongsa, could you tell the members
6 of the jury what we're seeing here, please?

7 A. On September 2nd, a wire transfer credit of \$234,980
8 was made into the bank account of Caledonian Agency, Inc., and
9 it's from Ocean Conquest, LLC.

10 Q. And did that money correlate with this list of
11 helicopters that we just discussed?

12 A. Yes.

13 Q. That were registered to this list of companies that
14 we just discussed?

15 A. Yes.

16 Q. That we saw on the documents that Hansen Helicopters
17 produced in response to the grand jury subpoena?

18 A. Yes.

19 Q. Now, let's talk about Count 104.

20 MS. M. MILLER: And, Ms. Miller, if you can go
21 back to the demonstrative aid. Thank you.

22 BY MS. M. MILLER: (CONTINUING)

23 Q. And, Special Agent Khamvongsa, could you read to the
24 jury Count 104?

25 A. "October 3rd, 2016, wire transfer from Sea Fox, LLC

Direct - Khamvongsa

1 in the amount of \$401,558.41."

03:13PM

2 Q. Did you say 558?

03:13PM

3 A. \$558.41.

03:13PM

4 Q. Thank you.

03:13PM

5 Did you perform the same kind of analysis for this
6 count as you did for the others?

03:13PM

03:13PM

7 A. Yes, I -- yes, I did.

03:13PM

8 Q. Okay. And could you tell the members of the jury,
9 first, Sea Fox, LLC, did they have a holding company?

03:13PM

03:13PM

10 A. Yes, they have a parent company or an umbrella
11 company.

03:13PM

03:13PM

12 Q. Okay. And what was the name of that holding company?

03:13PM

13 A. That was the South Pacific Tuna Company.

03:13PM

14 Q. Okay. Let's look at what has been previously marked
15 as Government's Exhibit 2936. I do not believe this is
16 entered into evidence yet. Do you recognize this?

03:13PM

03:13PM

03:13PM

17 A. Yes.

03:13PM

18 Q. What is it?

03:13PM

19 A. It's a -- it's a monthly bank statement for
20 Caledonian Agency, Inc. bank account.

03:14PM

03:14PM

21 Q. How do you obtain this?

03:14PM

22 A. It was provided to me through the grand jury
23 subpoena.

03:14PM

03:14PM

24 Q. Is it a true and correct copy of what was provided?

03:14PM

25 A. Yes.

03:14PM

Direct - Khamvongsa

1 MS. M. MILLER: Your Honor, at this time, the
2 Government would offer into evidence what has been previously
3 marked as Government Exhibit 2936.

4 And pages?

5 THE COURT: How many pages or do you just want to
6 do one -- the pertinent page?

7 MS. M. MILLER: It's a total of five pages, Your
8 Honor.

9 THE COURT: You're moving to admit all five?

10 MS. M. MILLER: And the wire transfers, so I
11 would move to admit page 1 and page 4.

12 THE COURT: I'm sorry, what is it, page 1 and
13 page 4?

14 MS. M. MILLER: Page 1 and page 4. Page 4 shows
15 the wire transfer.

16 THE COURT: Okay. All right. Any objections,
17 Counsels?

18 MR. MARTIN: No, Your Honor.

19 THE COURT: Okay. Ms. McConwell?

20 MS. MCCONWELL: Yeah, no, Your Honor, but I would
21 -- it's not -- this is not Hansen Helicopter's counts.

22 THE COURT: All right, very well. So, ladies and
23 gentlemen of the jury, 2936-1 through 5 will be admitted
24 without objection, and it applies to Mr. Walker.

25 MR. MARTIN: I thought it was one and four.

Direct - Khamvongsa

1 THE COURT: Oh, I'm sorry. It's one and four. 03:15PM

2 MS. M. MILLER: One and four. 03:15PM

3 THE COURT: I made a mistake, one and four, 03:15PM

4 that's right. Strike that. 2936-1 and 2936-4 admitted 03:15PM

5 without objection as applied to Mr. Walker. 03:15PM

6 (Exhibit 2936-1 to 2936-4 admitted.) 03:15PM

7 THE COURT: Go ahead. 03:15PM

8 MS. M. MILLER: May I publish page 1, Your Honor? 03:15PM

9 THE COURT: You may, yes. 03:15PM

10 MS. M. MILLER: And, Ms. Miller, could you hone 03:15PM

11 in on the very top of the document. 03:15PM

12 BY MS. M. MILLER: (CONTINUING) 03:15PM

13 Q. And, Special Agent Khamvongsa, could you tell the 03:15PM

14 members of the jury what they're seeing here? 03:15PM

15 A. This is a bank statement covering the period of 03:15PM

16 September 30th, 2016, through October 31st, 2016, for 03:15PM

17 Caledonian Agency, Inc., PO Box 9099, Tamuning, Guam 96931. 03:15PM

18 Q. Okay. And, now, let's go to page 4, and can you tell 03:15PM

19 the members of the jury what they're seeing here? 03:16PM

20 A. This is on October 3rd, 2016, a wire transfer credit 03:16PM

21 of \$401,558.41 was made by the organization Sea Fox, LLC. 03:16PM

22 Q. Into the account of Caledonian Agency? 03:16PM

23 A. Yes, into the Caledonian Agency, Inc. bank account. 03:16PM

24 Q. Okay. Now, did you do an analysis to determine which 03:16PM

25 transactions comprised the \$401,558.41 wire transfer? 03:16PM

Direct - Khamvongsa

1 A. Yes.

03:16PM

2 Q. Okay. Let's go back to Exhibit 726, and specifically
3 I'm going to ask you to look at pages 65 and 66. We could
4 start with 66. Do you see the transaction for September 2016
5 from Sea Quest?

03:16PM

03:16PM

03:17PM

03:17PM

6 MS. M. MILLER: Can we hone in on that?

03:17PM

7 THE WITNESS: No, I think you have the wrong
8 page.

03:17PM

03:17PM

9 (Pause.)

03:17PM

10 MS. M. MILLER: Ms. Miller, can you highlight the
11 fishing companies on the left, please.

03:17PM

03:17PM

12 THE WITNESS: Okay. Yes.

03:17PM

13 BY MS. M. MILLER: (CONTINUING)

03:17PM

14 Q. Okay. And could you tell the members of the jury
15 what do we see here?

03:17PM

03:17PM

16 A. We see six tuna boats which make up Sea -- which make
17 up that lump sum payment of \$239,867.58, which was received on
18 9-1-2016.

03:17PM

03:17PM

03:18PM

19 Q. Okay. And could you go through this for the members
20 of the jury just, please, quickly the names of the boats?

03:18PM

03:18PM

21 A. Yes. The boats include Sea Quest, Sea Defender, Sea
22 Trader Sea Fox, Sea Honor, Sea Bounty.

03:18PM

03:18PM

23 Q. Okay. And now let's look at the prior page, which is
24 Exhibit 726-66.

03:18PM

03:18PM

25 MS. S. MILLER: Sorry, that was page 65.

03:18PM

1 MS. M. MILLER: Oh, that was page 65. Now go to 03:18PM
2 page 66. Sorry. Thank you. 03:18PM
3 BY MS. M. MILLER: (CONTINUING) 03:18PM
4 Q. There was an additional transaction, wasn't there, 03:18PM
5 sir, so that we get the total of 401,558.41? 03:18PM
6 A. Yes. 03:18PM
7 Q. Okay. And I believe that's on -- 03:18PM
8 A. It may be on the prior page. 03:18PM
9 Q. -- next page. 03:18PM
10 Okay. And do you see what has been highlighted 03:19PM
11 there, sir? 03:19PM
12 A. Yes. 03:19PM
13 Q. And could you tell the members of the jury what that 03:19PM
14 is? 03:19PM
15 A. That's for the Sea Fox invoice for damage charges of 03:19PM
16 \$161,593.41. 03:19PM
17 Q. If you total that amount with the amount we had on 03:19PM
18 the prior page, do you come up with 401,558.41? 03:19PM
19 A. Yes. 03:19PM
20 Q. Now, let's look at Exhibit 725, please. 03:19PM
21 THE COURT: Yes, Ms. McConwell? 03:19PM
22 MS. MCCONWELL: I'm -- I'm not clear what she -- 03:19PM
23 when she said "the other page," I'm not -- I didn't see what 03:19PM
24 other page she's talking about. 03:19PM
25 MS. M. MILLER: The prior page that we just 03:19PM

Direct - Khamvongsa

1 showed the total amount of the billings, to be 239,000 and
2 change --

3 MS. MCCONWELL: I only saw that on page --

4 MS. M. MILLER: -- added to the --

5 MS. MCCONWELL: -- you only showed page 65. You
6 didn't show another page.

7 MS. S. MILLER: It was just one page, Marie.

8 MS. M. MILLER: Oh, just one page?

9 MS. MCCONWELL: Just one page.

10 MS. M. MILLER: Were they both on one page?

11 Okay, it was both on one page. Sorry.

12 THE COURT: All right. 725-1?

13 MS. M. MILLER: Yes, Your Honor, 725 --

14 THE COURT: Has that been admitted?

15 MS. M. MILLER: 725's already been admitted, and
16 I would like Special Agent Khamvongsa to look at pages 13 to
17 15 of 725.

18 THE COURT: Okay. Those have been admitted as
19 well?

20 MS. M. MILLER: Yes, Your Honor.

21 THE COURT: All right.

22 BY MS. M. MILLER: (CONTINUING)

23 Q. So do you see the Sea Bounty, Sea Quest, Sea
24 Defender, Sea Fox, Sea Honor and Sea Trader?

25 A. Yes.

Direct - Khamvongsa

1 Q. And could you please tell me the registration numbers
2 of the helicopters that were being leased to those companies?

3 A. N369V, N755PC, N271M, N40490, N -- N831FG to Sea
4 Honor, and N90176 to Sea Trader.

5 Q. And 9 --

6 A. -- 0176.

7 Q. Okay. And did you perform the same analysis where
8 you looked at the registration summary chart to determine who
9 was identified as the registered owner of these helicopters
10 during the period of time of this transaction?

11 A. Yes.

12 Q. Okay.

13 MS. M. MILLER: Can we go to that chart please,
14 Ms. Miller.

15 BY MS. M. MILLER: (CONTINUING)

16 Q. Okay, for 369V could you tell the members of the jury
17 what was the name of the company that was identified as the
18 registered owner?

19 A. Foxtrot Air, Inc.

20 Q. And who registered it under Foxtrot Air?

21 A. Jon Walker.

22 Q. Okay. Can you go to N755PC, and tell the members of
23 the jury what was the name of the company that this particular
24 helicopter was registered under during this period of time?

25 A. HH Helicopters, Inc.

1 Q. And who registered it? 03:22PM

2 A. Jon Walker. 03:22PM

3 Q. Can you go to N271M and please tell the members of 03:22PM

4 the jury which company was the registered owner of N271M 03:22PM

5 during this period of time? 03:22PM

6 A. Jan's Helicopters Service, Inc. 03:22PM

7 Q. And who registered that helicopter under Jan's name? 03:22PM

8 A. Jon Walker. 03:22PM

9 Q. Okay. Can you go to N40490 and please tell the 03:22PM

10 members of the jury which company that particular helicopter 03:22PM

11 was registered under? 03:22PM

12 A. Wilma's Flight Services, Inc. 03:22PM

13 Q. And who registered that helicopter under Wilma's 03:22PM

14 Flight Services, Inc.? 03:22PM

15 A. Kenneth Crowe. 03:22PM

16 Q. Okay. Now, could you please go to November 831FG, 03:23PM

17 and tell the members of the jury which company was identified 03:23PM

18 as the registered owner during the period of time? 03:23PM

19 A. Marlin Bay Helicopters. 03:23PM

20 Q. And who registered that company -- that aircraft with 03:23PM

21 that company? 03:23PM

22 A. Jon Walker. 03:23PM

23 Q. And then could you please look at N90176 and tell the 03:23PM

24 members of the jury which company that helicopter was 03:23PM

25 registered under? 03:23PM

Direct - Khamvongsa

1 A. Spotters, Inc. 03:23PM

2 Q. And who registered that helicopter in the name of 03:23PM

3 Spotters, Inc? 03:23PM

4 A. Jon Walker. 03:23PM

5 Q. Now, let's look at Exhibit 750-1. 03:24PM

6 THE COURT: Has that been admitted? 03:24PM

7 MS. M. MILLER: Yes, Your Honor, that's what I 03:24PM

8 have on my record that -- 03:24PM

9 THE COURT: Okay. 03:24PM

10 MS. M. MILLER: -- that has already been 03:24PM

11 admitted. 03:24PM

12 THE COURT: 750-1, okay. 03:24PM

13 MS. M. MILLER: 750-1. 03:24PM

14 BY MS. M. MILLER: (CONTINUING) 03:24PM

15 Q. First of all, can you tell me the date of this 03:24PM

16 letter, sir? 03:24PM

17 A. It's dated -- it's dated July 9th, 2020. 03:24PM

18 Q. Okay. Let's stop for a moment. 03:24PM

19 MS. M. MILLER: Ms. Santos, do you have that as 03:24PM

20 admitted? 03:24PM

21 THE CLERK: I'm just verifying. 03:24PM

22 MS. M. MILLER: Oh, I'm sorry. 03:24PM

23 THE CLERK: One moment, thank you. 03:24PM

24 MS. M. MILLER: No, no, no, take your time. 03:24PM

25 THE CLERK: Yes. 03:25PM

Direct - Khamvongsa

1 BY MS. M. MILLER: (CONTINUING)

03:25PM

2 Q. So the date of the letter, sir, I'm sorry?

03:25PM

3 A. July 9th, 2020.

03:25PM

4 Q. A who is it addressed to?

03:25PM

5 A. Stephanie Lewis with the Federal Aviation
6 Administration.

03:25PM

03:25PM

7 Q. Who is it from?

03:25PM

8 A. It's from Jon D. Walker.

03:25PM

9 Q. And what address is Mr. Walker sending this from?

03:25PM

10 A. 3561 Route C, Neosho, Missouri.

03:25PM

11 Q. Okay. And if we look at the next page of this
12 document.

03:25PM

03:25PM

13 MS. M. MILLER: Would you go to the next page,
14 Ms. Miller. Next page, sorry.

03:25PM

03:25PM

15 BY MS. M. MILLER: (CONTINUING)

03:25PM

16 Q. Do you see that list of helicopters, sir?

03:25PM

17 A. Yes.

03:25PM

18 Q. And does that list include some of the helicopters
19 that we see here, for example, 831FG?

03:25PM

03:25PM

20 A. Sorry.

03:25PM

21 Q. It's okay. It's line 11.

03:25PM

22 A. Okay. Yes.

03:26PM

23 Q. Okay. All right. Did you analyze, like you did for
24 the other transactions, who the mechanics were that were
25 assigned to these helicopters to work on them?

03:26PM

03:26PM

03:26PM

1 A. I did.

03:26PM

2 Q. And were you able to determine whether those
3 mechanics were or were not certificated?

03:26PM

03:26PM

4 A. They were not certificated by the FAA.

03:26PM

5 Q. Okay. And if we go back to page 1 of this letter,
6 750-1, and could you please read this paragraph that
7 Ms. Miller just highlighted?

03:26PM

03:26PM

03:26PM

8 A. "Included with this letter is a list of containing
9 1DQ and 16 Model 369-HS aircraft whose certificate of aircraft
10 registration has been signed by me and returned to the
11 registry. I am the president and a director of the
12 corporation listed with each aircraft. Although I do not
13 agree that the HS aircraft are subject to the Cape Town Treaty
14 or international registry, I hereby certify, as president of
15 each listed corporation, that all registered interests, if
16 any, ranking in priority to the -- of the owner of each
17 aircraft have been discharged. Please complete the
18 deregistration process. Sincerely yours, Jon D. Walker."

03:26PM

03:26PM

03:26PM

03:27PM

03:27PM

03:27PM

03:27PM

03:27PM

03:27PM

03:27PM

03:27PM

19 Q. Okay. Thank you.

03:27PM

20 MS. M. MILLER: Thank you, Ms. Miller.

03:27PM

21 BY MS. M. MILLER: (CONTINUING)

03:27PM

22 Q. Now, I'd like to show you a demonstrative aid that
23 will show the jury the money laundering transactions from the
24 Second Superseding Indictment.

03:27PM

03:27PM

03:27PM

25 MS. M. MILLER: Ms. Miller, if you could pull up

03:27PM

1 Demonstrative Aid 43, and I believe it's page 2 that has money
2 laundering counts from the Second Superseding Indictment.

3 THE COURT: What was the --

4 MR. MARTIN: What paragraph is this? Is this a
5 paragraph of the indictment?

6 MS. M. MILLER: It is.

7 MR. MARTIN: Can you identify it for us, please?

8 THE COURT: And what exhibit is this?
9 Demonstrate what?

10 MS. S. MILLER: Forty-three.

11 MS. M. MILLER: It's Demonstrative Aid 43,
12 G-DA-43.

13 THE COURT: Okay. And then give -- point,
14 Mr. Martin to --

15 MS. M. MILLER: It's paragraph 139, Your Honor.
16 It's on screen.

17 THE COURT: Right, okay. 139 of the indictment?

18 MS. M. MILLER: Yes, Your Honor.

19 THE COURT: Okay, 139, Counsel, Second
20 Superseding Indictment.

21 BY MS. M. MILLER: (CONTINUING)

22 Q. And, Special Agent Khamvongsa --

23 MS. M. MILLER: Ms. Miller, could you highlight
24 just that section please?

25 (Counsel conferred.)

Direct - Khamvongsa

1 MS. M. MILLER: No, that's okay. There you go. 03:28PM

2 Thank you. 03:28PM

3 BY MS. M. MILLER: (CONTINUING) 03:28PM

4 Q. Special Agent Khamvongsa, could you please read this 03:28PM
5 paragraph to the jury? 03:28PM

6 A. "On or about December 2016 in the District of Guam 03:28PM
7 and elsewhere, the Defendant John D. Walker aka Jon Walker, 03:29PM
8 knowingly engaged or attempted to engage in monetary 03:29PM
9 transactions, that is the deposit, withdrawal, transfer, or 03:29PM
10 exchange of funds or a monetary instrument, through or to a 03:29PM
11 financial institution, affecting interstate or foreign 03:29PM
12 commerce, in criminally-derived property of value greater than 03:29PM
13 \$10,000, such property having been derived from a specified 03:29PM
14 unlawful activity, that is, honest services and wire fraud, in 03:29PM
15 violation of Title 18, United States Code, Sections 13 -- 03:29PM
16 1343, 1346, and 2, as more fully described in the paragraphs 03:29PM
17 of Count 100 through 104 of this Second Superseding Indictment 03:29PM
18 to wit." 03:29PM

19 Q. Okay. And let's go to -- and Counts 100 through 104 03:29PM
20 are the ones we just went over that were the wire fraud 03:29PM
21 counts? 03:30PM

22 A. Yes. 03:30PM

23 Q. Okay. Now, let look at Counts 105 to 110, please. 03:30PM
24 There we go. So let's start with Count 105, please, and could 03:30PM
25 you read that count to the members of the jury? 03:30PM

Direct - Khamvongsa

1 A. "December 14th, 2016, Walker electronically
2 transferred \$3 million from Caledonian's Bank of Hawaii
3 corporate bank account ending in 9134 to Hansen Northern's
4 Bank of Hawaii corporate bank account ending in 3534."

5 Q. Okay. Now, let's look at what has been marked but
6 not introduced as Government's Exhibit 25. Do you recognize
7 this document?

8 THE COURT: How many page is that are you going
9 to put in? What are you trying to put in, how many pages?

10 MS. M. MILLER: Twenty-three total, Your Honor.

11 THE COURT: Okay. So 25-1 through 25-23.

12 MS. M. MILLER: Yes, Your Honor.

13 THE COURT: Go ahead.

14 BY MS. M. MILLER: (CONTINUING)

15 Q. Do you recognize this document?

16 A. Yes.

17 Q. What is it?

18 A. This is the bank statement for Caledonian Agency,
19 Inc.

20 Q. Okay. Bank of Hawaii?

21 A. Yes, from Bank of Hawaii.

22 Q. Is it a true and correct copy of the bank statement
23 that you received pursuant to a subpoena in this case?

24 A. Yes.

25 MS. M. MILLER: Your Honor, at this time I would

1 offer into evidence what has been previously marked as
2 Government's Exhibit 25.

3 THE COURT: 1 through 23?

4 MS. M. MILLER: Dash 1 and 25-11 --

5 THE COURT: Okay, so --

6 MS. M. MILLER: -- which is the specific monetary
7 transactions.

8 THE COURT: Those two pages. All right, Counsel?

9 (Pause.)

10 THE COURT: Yes?

11 MR. MARTIN: As to 25-1 and 11, no objection.

12 THE COURT: All right. Very well. And --

13 MS. MCCONWELL: And Hansen -- and the same for
14 Hansen Helicopters, it's just it's admitted to Mr. Walker not
15 to Hansen Helicopters.

16 THE COURT: All right, very well. Counsel --
17 ladies and gentlemen of the jury, 25-1 and 25-11 are admitted
18 without objection and it applies to Mr. Walker.

19 And, yes, you may publish.

20 (Exhibit 25-1 to 25-11 admitted.)

21 MS. M. MILLER: Okay. So let's first publish
22 page 1, please, and the top of the page please.

23 BY MS. M. MILLER: (CONTINUING)

24 Q. And could you tell the members of the jury same bank,
25 same company; right?

1 A. Yes, it's Caledonian Agency, Inc. bank account. 03:32PM

2 Q. Okay. Now let's look at page 11, and can you 03:32PM
3 identify for us the transaction that you identified as a money 03:32PM
4 laundering transaction? 03:32PM

5 A. Sure. It is the December -- it's a December 14th, 03:32PM
6 2016, transaction right here which are marked, which is the 03:32PM
7 BBC web transfer. 03:32PM

8 Q. Can you see that better? 03:32PM

9 A. Yes. 03:32PM

10 Q. Okay. 03:32PM

11 A. It's the BBC web transfer of \$3 million going into 03:32PM
12 the account ending in 3534, which is the Hansen Northern 03:32PM
13 Helicopters account. 03:33PM

14 MS. M. MILLER: I'm out of paper. Can I get 03:33PM
15 another one? 03:33PM

16 BY MS. M. MILLER: (CONTINUING) 03:33PM

17 Q. So the \$3 million went from Caledonian Agency; 03:33PM
18 correct? 03:33PM

19 A. Yes. 03:33PM

20 Q. To Hansen Northern; correct? 03:33PM

21 A. Yes. 03:33PM

22 Q. And while we're getting the white paper put up there, 03:33PM
23 let's look at what has already been entered into evidence as 03:33PM
24 Exhibit 829. Do you see those two companies here, sir? 03:33PM

25 A. Yes. 03:33PM

Direct - Khamvongsa

1 Q. And could you tell the members of the jury -- step 03:33PM
2 down and show the members of the jury where they're located. 03:33PM
3 You can use this microphone. It's awkward. I'll stand here. 03:33PM
4 You stand there. 03:33PM

5 A. Bless you. 03:33PM

6 Hansen Northern Helicopters and Caledonian Agency are 03:33PM
7 owned by Jon Walker and they're -- they're underneath the Jon 03:34PM
8 Walker here in this corporate structure. 03:34PM

9 Q. Okay. And so can you show, by using your hand, 03:34PM
10 the -- the flow of the money from Caledonian to Hansen 03:34PM
11 Helicopters -- Hansen Northern Helicopters, Inc.? 03:34PM

12 A. So the tuna boat companies' money would come into 03:34PM
13 here into Caledonian Agency, Inc., the investment account, 03:34PM
14 which went into Hansen Northern's Helicopters' Inc. bank 03:34PM
15 account. 03:34PM

16 Q. Okay. Thank you, sir. 03:34PM

17 And the president of both of those companies, sir? 03:34PM

18 A. Jon Walker. 03:34PM

19 Q. And that transaction obviously involves more than 03:34PM
20 \$10,000? 03:34PM

21 A. Yes. 03:34PM

22 Q. Okay. Let's look at page 12 -- 03:34PM

23 MS. M. MILLER: And that has not been admitted 03:35PM
24 yet, Your Honor. 03:35PM

25 THE COURT: Same -- 29 -- 03:35PM

1 MS. M. MILLER: It's the same Exhibit 25 but it's
2 page 12, and so the same foundation for it.

3 THE COURT: All right. Any objections, Counsel?

4 MR. MARTIN: May I have judgment a moment, Your
5 Honor?

6 (Pause.)

7 MS. M. MILLER: Before we go to page 12, there's
8 one more thing I want to do on 11.

9 THE COURT: Let's see if there is any objections
10 as to 25-12?

11 MR. MARTIN: No objection to 12, Your Honor.

12 THE COURT: All right.

13 BY MS. M. MILLER: (CONTINUING)

14 Q. Okay. So, Special Agent Khamvongsa --

15 THE COURT: Hold on, hold on, let me see --
16 Ms. McConwell? Yes?

17 MS. MCCONWELL: Hansen's not on these. You know,
18 Your Honor, as I'm looking at the -- at the statements, I wish
19 we could go in and redact, and I would ask if the Government
20 would be willing to do this, redact some of the names of the
21 people that are on here. We're going to be -- if it's going
22 to be published into the -- into the public, because there
23 are, you know, individuals that were paid that have -- may
24 work for the organizations that I don't think it's appropriate
25 to have their names out there. They're not defendants.

Direct - Khamvongsa

1 They're not parties to this litigation, and -- and I think
2 their privacy should be protected. And, I'm sorry, to
3 announce that --

4 THE COURT: All right. No objections to that.
5 All right. Very well. The Court will admit Exhibit 25-12
6 without objection, except with the proviso that any other
7 names that are not relevant to the transaction at hand will be
8 redacted.

9 MS. MCCONWELL: Thank you.

10 THE COURT: All right. Very well.

11 Admitted. Yes, published.

12 MS. M. MILLER: Thank you, Your Honor.

13 THE COURT: Go ahead.

14 MS. M. MILLER: Thank you, Your Honor.

15 (Exhibit 25-12 admitted.)

16 BY MS. M. MILLER: (CONTINUING)

17 Q. Now, Count 105, Special Agent Khamvongsa, involved a
18 \$3 million transaction; correct?

19 A. Yes.

20 Q. Count 106 involves a transaction of how much?

21 A. \$3 million.

22 Q. And if you look at what has been admitted as
23 Exhibit 25, page 11, on the bottom of that page, do you see
24 the transaction -- the second transaction for \$3 million
25 there?

Direct - Khamvongsa

1 A. Yes. 03:37PM

2 Q. Where was that money transferred to? 03:37PM

3 A. That is -- that \$3 million was transferred from 03:37PM

4 Caledonian Agency, Inc. to Hansen Northern Helicopters, Inc. 03:37PM

5 bank account with Bank of Hawaii. 03:37PM

6 Q. Count 107 involved a monetary transaction. If we can 03:37PM

7 go to page 12, please, and do you see that transaction there, 03:38PM

8 sir? 03:38PM

9 A. Yes. 03:38PM

10 Q. And what is the amount of that transaction? 03:38PM

11 A. \$200,000. 03:38PM

12 Q. And where did those funds go? 03:38PM

13 A. This one went into the Hansen Helicopter bank account 03:38PM

14 with Bank of Hawaii. 03:38PM

15 Q. So to Hansen Helicopters, not Hansen Northern? 03:38PM

16 A. No. 03:38PM

17 MR. LEON GUERRERO: Your Honor, sorry, this 03:38PM

18 particular exhibit published to the jury? It's been admitted. 03:38PM

19 THE COURT: 25-12 has been admitted. 03:38PM

20 MS. M. MILLER: Yeah. 03:38PM

21 MR. LEON GUERRERO: Now it's being shown. 03:38PM

22 THE COURT: 25-12 -- 03:38PM

23 MS. M. MILLER: Oh, I'm sorry, it wasn't being 03:38PM

24 published. Thank you. 03:38PM

25 THE COURT: 25-12? 03:38PM

Direct - Khamvongsa

1 MS. M. MILLER: Yes. Okay, I think the jury
2 could see it now, Your Honor.

3 Thank you, Mr. Leon Guerrero.

4 BY MS. M. MILLER: (CONTINUING)

5 Q. Okay. So that \$200,000 transaction went from
6 Caledonian to Hansen Helicopters?

7 A. Yes.

8 Q. Okay. And then let's look at the transaction that is
9 reflected in Count 108, and that is also on page 12, and could
10 you tell the members of the jury what the amount of that
11 transaction was?

12 A. \$500,000.

13 Q. And where did that money go?

14 A. It went into the Hansen Northern Helicopters, Inc.
15 bank account with Bank of Hawaii.

16 MS. M. MILLER: And then, Your Honor, on -- in
17 this same exhibit, Exhibit 25, on pages 22 to 23, we have the
18 -- beginning and the ending balance for this account that I
19 would like to share with the jury, so I would ask the Court to
20 allow me to move into evidence Exhibits 22 to 23.

21 MS. MCCONWELL: Pages?

22 MS. M. MILLER: Pages 22 and 23 of Exhibit 25.

23 THE COURT: Okay. I think I've already -- I
24 think I've already admitted 23. So we're going add 22. Any
25 objections to that?

1 MS. M. MILLER: It's Exhibit 25, pages 22 and 23. 03:40PM

2 THE COURT: Right, right, yeah. 03:40PM

3 MS. MCCONWELL: Um... 03:40PM

4 MR. MARTIN: Your Honor, I have no objection. 03:40PM

5 THE COURT: Okay. Ms. McConwell? 03:40PM

6 MS. MCCONWELL: Subject to my request for 03:41PM

7 redaction, I don't have -- Hansen has no objection. This is 03:41PM

8 also admitted as to Walker, not to Hansen. 03:41PM

9 THE COURT: All right. Ladies and gentlemen of 03:41PM

10 the jury, Exhibit 25 through 20 -- 25-22 and 23-23[sic] has 03:41PM

11 been admitted, but 22 will also be admitted without objection, 03:41PM

12 and to the extent that there are names in there that deserve 03:41PM

13 privacy, then have them redacted. 03:41PM

14 MS. M. MILLER: Yes, Your Honor. 03:41PM

15 THE COURT: All right. 03:41PM

16 (Exhibit 25-22 to 25-23 admitted.) 03:41PM

17 MS. M. MILLER: May I publish -- 03:41PM

18 THE COURT: You may. 03:41PM

19 MS. M. MILLER: -- page 22 to the jury, please? 03:41PM

20 (Pause.) 03:41PM

21 BY MS. M. MILLER: (CONTINUING) 03:41PM

22 Q. Okay. So this is from page 22, sir. Can you tell 03:41PM

23 the members of the jury what they're seeing here? 03:41PM

24 A. So what's reflected here is the monthly balance. So 03:41PM

25 it starts off on a -- on a November 30th, 2016, at 03:41PM

1 \$6,102,121.62, and throughout that time frame, it stays 03:41PM
2 relatively at that amount. Do you want me to read each -- 03:42PM

3 Q. Yeah. 03:42PM

4 MS. M. MILLER: Let's go to the next page please, 03:42PM
5 Ms. Miller, page 23. 03:42PM

6 BY MS. M. MILLER: (CONTINUING) 03:42PM

7 Q. Okay. Can you tell us what we're seeing here, 03:42PM
8 please? 03:42PM

9 A. So what we're seeing is on December 14th, 15th and 03:42PM
10 16th, we see -- it reflects a substantial drop in the balance, 03:42PM
11 which is an anomaly in regards to this particular account with 03:42PM
12 Caledonian Agency, Inc. And then for the rest of the month, 03:42PM
13 the balance is under a million dollars after 12-16-2016. 03:42PM

14 Q. What happened in December of 2016 or immediately 03:42PM
15 prior to 20 -- December 2016, in regards to this particular 03:42PM
16 case? 03:43PM

17 A. In October 2016, the FBI and Department of 03:43PM
18 Transportation OIG executed this search warrant on Hansen 03:43PM
19 Helicopters' facilities. 03:43PM

20 Q. Okay. How much money total was transferred out of 03:43PM
21 the Caledonian Agency account and moved into either Hansen 03:43PM
22 Northern or Hansen Helicopters? 03:43PM

23 A. We're looking at \$6.7 million. 03:43PM

24 Q. Okay. Now, I'd like you to look at what has been 03:43PM
25 previously marked and I believe entered into evidence as 03:43PM

Direct - Khamvongsa

1 Government's Exhibit 23 --

03:43PM

2 MS. M. MILLER: Or has that been in yet? Not
3 yet. Okay, good. This not into evidence yet, Your Honor,
4 Exhibit 23.

03:43PM

03:43PM

03:43PM

5 BY MS. M. MILLER: (CONTINUING)

03:43PM

6 Q. Do you see it, sir?

03:43PM

7 A. Yes.

03:43PM

8 Q. Do you recognize it?

03:43PM

9 A. Yes.

03:43PM

10 Q. Is it a true and correct copy of a bank account
11 record that you received in this case?

03:43PM

03:43PM

12 A. Yes.

03:43PM

13 MS. M. MILLER: Your Honor, at this time, the
14 Government would move into evidence Exhibit 23.

03:43PM

03:43PM

15 THE COURT: Just that -- there's no other pages?

03:43PM

16 MS. M. MILLER: No, so there's more pages.

03:44PM

17 Page 2 of Exhibit 23, this is the Hansen Northern account.

03:44PM

18 It's going to show the money coming into the Hansen Northern
19 Helicopters' account.

03:44PM

03:44PM

20 THE COURT: So what are you moving to admit?

03:44PM

21 MS. M. MILLER: I'm moving to admit page 1,
22 page 2 -- and let me make sure that there are no other
23 relevant pages here.

03:44PM

03:44PM

03:44PM

24 MS. MCCONWELL: I only have two pages. It's only
25 two pages long, Marie.

03:44PM

03:44PM

Direct - Khamvongsa

1 MS. M. MILLER: Oh, yeah, that's it, one and two. 03:44PM

2 THE COURT: All right. Counsels, any objections 03:44PM
3 to 23-1 and 23-2? 03:44PM

4 MR. MARTIN: No, Your Honor. 03:44PM

5 THE COURT: Ms. McConwell? 03:44PM

6 MS. MCCONWELL: No, Your Honor, and it's not 03:44PM
7 admitted as to Hansen Helicopters because we're not in the 03:44PM
8 Counts 99 through 110. 03:44PM

9 THE COURT: Oh, okay. All right. 03:44PM

10 Ladies and gentlemen of the jury, Exhibits 23-1 03:44PM
11 and 23-2 will be admitted without objection. Will be admitted 03:44PM
12 as to Mr. Walker. And to the extent that there's any privacy 03:44PM
13 issues on any other names not relevant to this case, they will 03:44PM
14 be redacted. 03:44PM
15 (Exhibit 23-1 to 23-2 admitted.) 03:44PM

16 MS. M. MILLER: And, Your Honor, may I publish it 03:44PM
17 to the jury? 03:44PM

18 THE COURT: You may, yes. 03:44PM

19 MS. M. MILLER: And, Ms. Miller, can you 03:45PM
20 highlight the top portion of this record. 03:45PM

21 BY MS. M. MILLER: (CONTINUING) 03:45PM

22 Q. And, sir, whose bank account is this? 03:45PM

23 A. Hansen Northern Helicopters, Inc. 03:45PM

24 Q. And what is the address shown here? 03:45PM

25 A. PO Box 9099, Tamuning, Guam 96931. 03:45PM

Direct - Khamvongsa

1 Q. Who else shares that address? 03:45PM

2 A. Hansen Helicopters and Caledonian Agency, Inc. 03:45PM

3 Q. Okay. And if we look at page -- can you go down this 03:45PM

4 page to the transaction section. Yes. Do you see the 03:45PM

5 transactions identified here, sir? 03:45PM

6 A. Yes. 03:45PM

7 Q. And could you tell the members of the jury what we're 03:45PM

8 looking at, in terms of those transactions? 03:45PM

9 A. So immediate -- immediately after the 12-14 to[sic] 03:45PM

10 2016 transfer of funds from Caledonian Agency, Inc. bank 03:45PM

11 account into Hansen Northern, now we see from December 16th to 03:45PM

12 December 2020, \$2.5 million going out for each one of those 03:46PM

13 individual days. So 12/16, 12/19 and 12/20 of 2016, we see 03:46PM

14 \$2.5 million going out to the account belonging to Walker 03:46PM

15 Agricola, and it's an outgoing wire transfer. 03:46PM

16 Q. Who owns Walker Agricola? 03:46PM

17 A. Jon Walker. 03:46PM

18 Q. Who's the signer on the account for Walker Agricola? 03:46PM

19 A. The sole signer of that account is Jon Walker. 03:46PM

20 Q. Is anyone else a beneficiary on that account besides 03:46PM

21 Jon Walker? 03:46PM

22 A. No. 03:47PM

23 Q. Let's look at page 2, please, and what do we see here 03:47PM

24 on page 2? 03:47PM

25 A. Page 2 -- we're going out of order -- actually 03:47PM

Direct - Khamvongsa

1 reflects the money that we just talked about earlier regarding
2 Caledonian Agency transferring the monies into Hansen
3 Northern. So this reflects the money coming into the Hansen
4 Northern Helicopter account.

5 So earlier we talked about the \$3 million coming in
6 on December 14th, 2016, and then the day later, December 15th,
7 2016, another \$3 million, and then December 16th, 2016, we see
8 \$500,000, which came from the Caledonian Agency, Inc. bank
9 account.

10 Q. For a total of how much going into the Caledonian --
11 from the Caledonian Agency account to Hansen Northern?

12 A. 6.5 million.

13 Q. And how much went out from Hansen Northern to Walker
14 Agricola?

15 A. 7.5.

16 Q. What is the business of Hansen Northern Helicopters?

17 A. Airline.

18 Q. Okay. Not leasing of tuna boat companies -- I mean,
19 tuna boat --

20 MR. MARTIN: Asked and answered.

21 BY MS. M. MILLER: (CONTINUING)

22 Q. -- helicopters for tuna boat companies?

23 MR. MARTIN: Asked and answered, Your Honor.

24 THE WITNESS: No.

25 THE COURT: I'm sorry -- I'm sorry, wait, wait

1 just a minute. What was the objection?

03:48PM

2 MR. MARTIN: It was asked and answered, and it's
3 a leading question. It was asked and answered.

03:48PM

03:48PM

4 THE COURT: Overruled on -- we'll just let it go.
5 Go ahead. Overruled.

03:48PM

03:48PM

6 THE WITNESS: No.

03:48PM

7 BY MS. M. MILLER: (CONTINUING)

03:48PM

8 Q. Okay. Now, what is the beginning balance of the
9 Hansen Northern airline account shown on page 23-1?

03:48PM

03:49PM

10 MS. M. MILLER: Can you go to 23-11, Ms. Miller?

03:49PM

11 BY MS. M. MILLER: (CONTINUING)

03:49PM

12 Q. Can you see the beginning balance there in the middle
13 of the page?

03:49PM

03:49PM

14 MS. M. MILLER: If you could pull that out.

03:49PM

15 BY MS. M. MILLER: (CONTINUING)

03:49PM

16 Q. What was the beginning balance?

03:49PM

17 A. \$975,377.91.

03:49PM

18 Q. And what was added during this month?

03:49PM

19 A. The total additions is 6. -- \$6,579,978.20.

03:49PM

20 Q. And how much went out of the account?

03:49PM

21 A. \$7,534,443.65.

03:49PM

22 Q. And what was the ending balance of this account?

03:49PM

23 A. \$20,912.46.

03:49PM

24 Q. Let's go back to Exhibit 43, the Demonstrative Aid
25 43, and look at Count 109. Demonstrative Aid 43, Count 109.

03:50PM

03:50PM

1 THE COURT: Okay. Ten minutes before we recess 03:50PM
2 for the day. 03:50PM

3 MS. M. MILLER: Yes, Your Honor. 03:50PM

4 THE COURT: How we doing on time? 03:50PM

5 MS. M. MILLER: We're doing great on time. I'll 03:50PM
6 actually 1, 2, 3 -- yeah, I'm on the last page-and-a-half of 03:50PM
7 questions, so we're doing good on time. 03:50PM

8 THE COURT: You're going to be able to finish 03:50PM
9 this witness before ten minutes you think or not? Probably 03:50PM
10 not? 03:50PM

11 MS. M. MILLER: We're to going to stop in ten 03:50PM
12 minutes? 03:50PM

13 THE COURT: Yeah. 03:50PM

14 MS. M. MILLER: I'll have very few questions for 03:50PM
15 tomorrow morning if we stop -- 03:50PM

16 THE COURT: All right. 03:50PM

17 MS. M. MILLER: -- in ten minutes. 03:50PM

18 THE COURT: That's fine. 03:50PM

19 MS. M. MILLER: But it will be done before the 03:50PM
20 first recess. 03:50PM

21 THE COURT: All right. That's fine. 03:50PM

22 BY MS. M. MILLER: (CONTINUING) 03:50PM

23 Q. Could you please read Count 109 to the jury? 03:50PM

24 A. "December 19th, 2016, Walker electronically 03:50PM
25 transferred \$2,500,000 from Hansen Northern's Bank of Hawaii 03:51PM

1 corporate bank account ending in 3534 to Walker Agricola LLC's
2 Community Bank and Trust business bank account ending in 4056.

3 Q. By the way, where is the Walker Agricola account
4 located?

5 A. Neosho, Missouri.

6 Q. Now, can you please look at count --

7 THE COURT: Sorry, where is it located?

8 THE WITNESS: Missouri.

9 THE COURT: Oh, Missouri, okay, that's right.

10 MS. M. MILLER: Neosho, Missouri.

11 THE COURT: That's right.

12 BY MS. M. MILLER: (CONTINUING)

13 Q. Could you now look at Count 110, and could you read
14 that count to the jury?

15 A. "December 20th, 2016, Walker electrically transferred
16 \$2,500,000 from Hansen Northern's Bank of Hawaii corporate
17 bank account ending in 3534 to Walker Agricola, LLC's
18 Community Bank and Trust business bank account ending in 4056.

19 Q. And were those the transactions that we saw earlier
20 in the bank statement?

21 A. Yes.

22 Q. Who lives in Neosho, Missouri?

23 A. Mr. Jon Walker.

24 Q. I'd like to show you what has been previously marked
25 as Exhibit 30. It has not been entered into evidence yet. Do

1 you recognize this?

03:52PM

2 A. Yes.

03:52PM

3 Q. Is it a true and correct copy of what you received?

03:52PM

4 A. Yes.

03:52PM

5 MS. M. MILLER: Your Honor, at this time, I would
6 offer into evidence what has been previously marked as
7 Exhibit 30.

03:52PM

03:52PM

03:52PM

8 THE COURT: Counsel?

03:52PM

9 MR. MARTIN: Just a second, Your Honor, I'm
10 sorry.

03:52PM

03:52PM

11 THE COURT: Mm-hmm.

03:52PM

12 (Pause.)

03:52PM

13 MR. MARTIN: No objection, Your Honor.

03:53PM

14 MS. MCCONWELL: I have no objection, Your Honor,
15 but this is not admitted to Hansen Helicopters. We're not in
16 these counts.

03:53PM

03:53PM

03:53PM

17 THE COURT: All right. Ladies and gentlemen of
18 the jury, Exhibit --

03:53PM

03:53PM

19 MS. M. MILLER: Thirty.

03:53PM

20 THE COURT: -- 30 -- is it just one page there,
21 30?

03:53PM

03:53PM

22 MS. M. MILLER: Thirty.

03:53PM

23 THE COURT: 30-1?

03:53PM

24 MS. M. MILLER: 30-1, yes.

03:53PM

25 THE COURT: All right.

03:53PM

Direct - Khamvongsa

1 MS. M. MILLER: It's only one page, Your Honor. 03:53PM

2 THE COURT: Admitted without objection and -- 03:53PM

3 MS. M. MILLER: May I publish it? 03:53PM

4 THE COURT: Yeah, you may. 03:53PM

5 MS. M. MILLER: Thank you. 03:53PM

6 (Exhibit 30 admitted.) 03:53PM

7 THE COURT: As applied to Mr. Jon -- Mr. Walker. 03:53PM

8 MS. M. MILLER: Yes, Your Honor. 03:53PM

9 BY MS. M. MILLER: (CONTINUING) 03:53PM

10 Q. Special Agent Khamvongsa -- 03:53PM

11 MS. M. MILLER: Ms. Miller, could you just 03:53PM

12 highlight the top portion of it and then we'll go through it. 03:53PM

13 Thank you so much. It's okay. 03:53PM

14 BY MS. M. MILLER: (CONTINUING) 03:53PM

15 Q. So, first, can you tell the members of the jury what 03:53PM

16 is this -- what is this document? 03:53PM

17 A. This is a -- an account card, which is generally 03:53PM

18 created at the opening of the bank account. 03:54PM

19 Q. Okay. And could you tell the members of the jury, 03:54PM

20 what was the initial deposit to open up this bank account? 03:54PM

21 A. \$50,000. 03:54PM

22 Q. And when was it opened? 03:54PM

23 A. March 19th, 2014. 03:54PM

24 Q. Okay. Now, let's look at the middle portion of this 03:54PM

25 document, okay, and let's see -- now, who signed this 03:54PM

Direct - Khamvongsa

1 document?

03:54PM

2 A. Jon Walker.

03:54PM

3 Q. And what box is checked next to his citizenship
4 status?

03:54PM

5 A. He's a U.S. citizen.

03:54PM

6 Q. Okay. And do we see the name of the company that you
7 referenced earlier on this document?

03:54PM

8 A. Yes.

03:54PM

9 Q. Is that Walker Agricola?

03:54PM

10 A. Yes.

03:54PM

11 Q. Okay. And then who do we see as the signer on this
12 account?

03:55PM

13 A. Jon Walker.

03:55PM

14 Q. How many signatures are needed -- how many signatures
15 are needed to remove any funds from this account based on this
16 card?

03:55PM

17 A. Just Jon Walker.

03:55PM

18 Q. Okay. Now let's look at the bottom, and we just --
19 what do we see here?

03:55PM

20 A. Walker Agricola, LLC, and just Jon Walker's
21 signature.

03:55PM

22 Q. Okay. Now let's look at what has been previously
23 marked but not admitted yet as Exhibit 31. Do you recognize
24 this document?

03:55PM

25 A. Yes.

03:55PM

Direct - Khamvongsa

1 Q. Is it a true and correct copy of what you received
2 from the bank?

3 A. Yes.

4 MS. M. MILLER: Your Honor, at this time, the
5 Government would move into evidence what has been previously
6 marked as Exhibit 31. How many pages? Three pages, Your
7 Honor.

8 THE COURT: 1 through 3?

9 MS. M. MILLER: Yes, Your Honor.

10 THE COURT: All right. Counsels?

11 (Pause.)

12 MR. MARTIN: No objection Your Honor.

13 THE COURT: Ms. McConwell?

14 MS. MCCONWELL: No objection, Your Honor, but,
15 again, Hansen Helicopters is not in the counts in 99
16 through 105 -- or 110.

17 THE COURT: All right. Ladies and gentlemen of
18 the jury, Exhibits 31-1 through 31-3 will be admitted without
19 objection as to Mr. Walker. And, again, as to the extent that
20 there is any private information from -- for other third
21 parties, please redact this -- redact their names and their
22 information. So admitted and yes, you may publish.
23 (Exhibit 31-1 to 31-3 admitted.)

24 MS. M. MILLER: Thank you, Your Honor.

25 THE COURT: You got three minutes.

1 MS. M. MILLER: So, Ms. Miller, can you -- yeah, 03:56PM
2 we'll just wrap up this document and then we'll be done for 03:57PM
3 the day. 03:57PM

4 THE COURT: Yeah, that's fine. 03:57PM

5 MS. M. MILLER: Could you highlight the top 03:57PM
6 portion. Thank you so much. 03:57PM

7 BY MS. M. MILLER: (CONTINUING) 03:57PM

8 Q. And could you tell the members of the jury, sir, what 03:57PM
9 are we seeing right here? 03:57PM

10 A. What we're seeing is this is a statement from 03:57PM
11 Community Bank and Trust from Walker Agricola, LLC in Neosho, 03:57PM
12 Missouri. 03:57PM

13 Q. Okay. Do you recall, sir, did the signature card 03:57PM
14 indicate what type of business Walker Agricola, LLC was? 03:57PM

15 A. I don't recall that. 03:57PM

16 Q. Okay. And, again, do we see that address in Neosho, 03:57PM
17 Missouri? 03:57PM

18 A. Yes. 03:57PM

19 MS. M. MILLER: And could you please now, 03:57PM
20 Ms. Miller, go to the transactions part of this page. 03:57PM

21 BY MS. M. MILLER: (CONTINUING) 03:57PM

22 Q. Okay. Sir, and could you tell the members of the 03:57PM
23 jury what we're seeing here? 03:57PM

24 A. We're seeing a bunch of transactions as it relates to 03:57PM
25 the account. 03:57PM

1 MS. M. MILLER: Okay. Now, let's go to the next
2 page, and can you highlight that page, please, just the
3 transactions.

4 BY MS. M. MILLER: (CONTINUING)

5 Q. And, again, what are we seeing here, sir?

6 A. What we're seeing is that the transfer of funds from
7 Hansen Northern Helicopters is being received by the Walker
8 Agricola bank account. As reflected here in the very -- in
9 the very top in this area here of the bank statement, we see
10 the \$2.5 million being received about December 15th, 2016.
11 Again we see another wire transfer of funds being received in
12 December 16th, 2016, of \$2.5 million, and it's identifying
13 Hansen Northern Helicopters. And then we see another wire
14 transfer of \$2.5 million again for December 19th, 2016 from
15 Hansen Northern Helicopters.

16 Q. Okay. So the transactions that we talked about in
17 Counts 109 and 110, we're seeing go into the actual account of
18 Walker Agricola; is that correct?

19 A. Yes. This reflects that they received the money --
20 Mr. Walker received the money.

21 Q. Do you see expenses going out of this account for
22 various businesses here in Guam?

23 A. Yes.

24 Q. Both on this page and the prior page?

25 A. Well, some appears to be in Guam and then some

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1 appears to be in Neosho, Missouri.

03:59PM

2 Q. Okay.

03:59PM

3 MS. M. MILLER: And, Ms. Miller, let's go to
4 page 3. Okay. And let's go to the summary of the account,
5 please, if you can highlight that.

03:59PM

03:59PM

03:59PM

6 BY MS. M. MILLER: (CONTINUING)

03:59PM

7 Q. Okay. So what are we seeing here, sir, in terms of
8 the starting and ending balance of this account?

04:00PM

04:00PM

9 A. (No response.)

04:00PM

10 Q. Let me ask you the question a different way, because
11 this account is kind of set up differently. What are the
12 total credits into this account for this month?

04:00PM

04:00PM

04:00PM

13 A. \$7,508,887.82.

04:00PM

14 Q. What are the total debits, meaning money, going out
15 of the account for that particular month?

04:00PM

04:00PM

16 A. \$16,867.58.

04:00PM

17 Q. Okay.

04:00PM

18 MS. M. MILLER: Your Honor, at this time, we will
19 stop. I just have wrap-up questions for tomorrow. So --

04:00PM

04:00PM

20 THE COURT: Okay, very well.

04:00PM

21 MS. M. MILLER: -- we'll be done tomorrow
22 morning.

04:00PM

04:00PM

23 THE COURT: All right. You'll be done with this
24 witness tomorrow morning?

04:00PM

04:00PM

25 MS. M. MILLER: Yes, Your Honor.

04:00PM

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1 THE COURT: And defense has an opportunity to 04:00PM
2 call -- to cross-examination the witness and you'll have your 04:00PM
3 next witness ready to go. 04:01PM

4 Ladies and gentlemen of the jury, first of all, 04:01PM
5 the Court will thank you again for coming back and being 04:01PM
6 faithful to staying healthy, as I've indicated earlier, and 04:01PM
7 also staying faithful to fulfilling your civic duty. It's 04:01PM
8 very important, as I've indicated to both the prosecution and 04:01PM
9 defense, that we have our jurors intact. And all of you, 04:01PM
10 every one of you who are here today are very important to the 04:01PM
11 -- this success of this process towards completion. 04:01PM

12 So, as I indicated, the prosecution has two more 04:01PM
13 witnesses. We're hoping to get done by this week so that you 04:01PM
14 can all start deliberating and, you know, complete this case. 04:01PM

15 The Court will keep the schedule as-is as we've 04:01PM
16 already discussed. 04:01PM

17 I would admonish you to continue to keep an open 04:01PM
18 mind. Do not form or express any opinion on this case until 04:01PM
19 it's submitted to you. Do not speak to anyone on any subject 04:01PM
20 connected with this trial. 04:02PM

21 I hope you have a safe evening. And also if you 04:02PM
22 don't feel good, make sure you don't come in. Let us know. I 04:02PM
23 mean, you know, COVID is still, you know -- and its variants 04:02PM
24 are still around Guam, but I think the good thing is a lot of 04:02PM
25 us are immunized and taken -- having taken our booster shots. 04:02PM

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1 So the Court, as I've indicated, because the
2 governor has said that masks are optional except for in
3 healthcare facilities, I think it may be even in the schools,
4 I'm not sure, but in healthcare facilities for sure, the Court
5 will keep that, will follow that particular executive order.
6 And my general order will allow jurors, if they wish to put on
7 their masks they can. If they don't, they don't have to.

8 We'll continue to provide you lunch and snacks.
9 And, again, thank you for your patience and your attention.

10 Please rise for the jury. See you tomorrow
11 morning. Start again on time 8:15.

12 (Jury out at 5:03 p.m.)

13 THE COURT: Agent Khamvongsa, I'll see you
14 tomorrow.

15 THE WITNESS: Thank you so much.

16 THE COURT: I'll see you tomorrow. Focus on
17 getting your limiting instruction that you were going to talk
18 about.

19 MS. M. MILLER: Yes, Your Honor. Thank you.

20 THE COURT: Thank you.

21 (Proceedings concluded at 5:03 p.m.)

22 * * *

1 August 16, 2022; 8:13 a.m.; Hagatna, Guam

04:03PM

2 * * *

04:03PM

3 (In Chambers.)

08:13AM

4 THE COURT: Let's go on the record. Who's
5 present first of all? Your client, Mr. Walker is present.
6 Mr. McConwell, Ms. McConwell, Mr. Martin, Mr. Han. Okay yes,
7 Mr. Martin?

08:13AM

08:13AM

08:13AM

08:14AM

8 MR. MARTIN: Yesterday afternoon, when I first
9 found out about it, and I didn't have a chance to look at it
10 because we were in Court, a website has been created
11 June 27th.

08:14AM

08:14AM

08:14AM

08:14AM

12 MS. MCCONWELL: July 27th.

08:14AM

13 MR. MARTIN: July 27th, just recently. And it
14 looks like a legitimate website and it is, for lack of a
15 better word, a website designed to ensure we get convicted and
16 go out of business because it's -- we have it here, Laura's
17 actually got it.

08:14AM

08:14AM

08:14AM

08:14AM

08:14AM

18 MS. MCCONWELL: It's Hansen-Helicopters.

08:14AM

19 THE COURT: Why don't we put it on my big screen,
20 send it to me JFTG --

08:14AM

08:14AM

21 MS. MCCONWELL: Hold on a second.

08:14AM

22 THE COURT: I'll give it to you. Is it Kandit
23 News?

08:14AM

08:14AM

24 MS. MCCONWELL: No, it is not.

08:14AM

25 THE COURT: Ed Han, is it Kandit News?

08:14AM

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1 MS. MCCONWELL: It's not. 08:14AM

2 MR. MARTIN: Every link goes to our case, it acts 08:14AM

3 like it's an aviation website and what is it called, 08:15AM

4 Pomposity? 08:15AM

5 MS. MCCONWELL: Pomposity. 08:15AM

6 THE COURT: Is that a word? 08:15AM

7 MS. MCCONWELL: I don't know. I haven't looked 08:15AM

8 it up. 08:15AM

9 THE COURT: Pomposity. 08:15AM

10 MR. MARTIN: Maybe that's what it is. 08:15AM

11 MS. MCCONWELL: What e-mail? 08:15AM

12 THE COURT: Jftg@gud.uscourts.gov. 08:15AM

13 MS. MCCONWELL: Let's see if I can -- I'm going 08:15AM

14 do this. Copy. 08:15AM

15 THE COURT: You think it's from the prosecution? 08:15AM

16 MR. MARTIN: No, Judge, we have no clue. We have 08:15AM

17 no clue. 08:15AM

18 THE COURT: Why aren't we calling the prosecution 08:15AM

19 in then? 08:15AM

20 MR. MARTIN: Well, we don't know. We wanted to 08:15AM

21 address you first with it. 08:15AM

22 THE COURT: Okay. And then decide? 08:15AM

23 MR. MARTIN: Just -- we're not accusing anybody 08:15AM

24 of anything. We're not certainly not accusing anybody because 08:15AM

25 we don't know. 08:15AM

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1 THE COURT: Okay. How did you guys find the 08:15AM
2 website? 08:15AM

3 MR. MARTIN: Our -- one of our clients -- one of 08:15AM
4 our clients... 08:16AM

5 MS. MCCONWELL: Well, actually we found it... we 08:16AM
6 found it because our client's girlfriend had -- was aware that 08:16AM
7 hansen-helicopter.com, a website was created but that's all 08:16AM
8 that we knew. And yesterday, we get e-mails while we're in 08:16AM
9 court and we find out that there have been contacts and 08:16AM
10 e-mails to Hansen Helicopters employees, and they've sent now 08:16AM
11 e-mails to -- 08:16AM

12 MR. MARTIN: Boat companies. 08:16AM

13 MS. MCCONWELL: All of the boats and the only way 08:16AM
14 they could have gotten the information is from the exhibits in 08:16AM
15 this trial. 08:16AM

16 THE COURT: Okay, did you send it? 08:16AM

17 MS. MCCONWELL: I did. It should be in your 08:16AM
18 inbox. 08:16AM

19 THE COURT: Okay. I don't have it yet. 08:16AM

20 MS. MCCONWELL: I may have gone to junk. 08:16AM

21 THE COURT: Let me go to junk. 08:16AM

22 MS. MCCONWELL: If she just tells you the URL, 08:17AM
23 you could type it in. 08:17AM

24 THE COURT: What was that? 08:17AM

25 MS. MCCONWELL: Hansen-helicopters.com and go to 08:17AM

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1 the website and we'll just type it in. 08:17AM

2 THE COURT: Okay. 08:17AM

3 (Pause.) 08:17AM

4 MS. MCCONWELL: Then at the top, in the top one, 08:17AM

5 just do H-A-N-S-E-N. 08:17AM

6 THE COURT: We don't need to go to Google? 08:17AM

7 MS. MCCONWELL: You don't even need to go to 08:17AM

8 Google. You just type it in. 08:17AM

9 THE COURT: You want to do it? 08:17AM

10 (Pause.) 08:17AM

11 THE COURT: My law clerk. Emily do it. Okay, 08:17AM

12 hold on. While you're doing that. 08:17AM

13 (Pause.) 08:17AM

14 THE COURT: Okay. Is this is it? 08:18AM

15 MR. MARTIN: That's it. 08:18AM

16 MS. MCCONWELL: And it has like an employment 08:18AM

17 record from Phillip Kapp in the Pacific Spotters -- from the 08:18AM

18 Philippines on it. It has a letter that this appears -- from 08:18AM

19 an organization that's Aeronavigator Advocacy Association 08:18AM

20 which can be found nowhere and it's definitely not in Keizer, 08:18AM

21 Oregon, which is one of the links in this page. It directs 08:18AM

22 people to contact Mike Boler -- 08:18AM

23 MR. MARTIN: The FAA. 08:18AM

24 MS. MCCONWELL: -- who is the FAA Special 08:18AM

25 Assessment team -- investigation team who had been -- you know 08:18AM

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1 on the list for a witness.

08:18AM

2 MR. MARTIN: There is a docket link on there,
3 Judge, that was just filed.

08:18AM

08:18AM

4 THE COURT: Wow, so somebody is watching this
5 trial.

08:18AM

08:18AM

6 MS. MCCONWELL: It all -- it went live on
7 July 27th is what we discovered. It's hosted by somebody in
8 Arizona, but if you go in here, it links to -- it links to --
9 basically prosecution filings, it references the prosecution.

08:18AM

08:18AM

08:18AM

08:19AM

10 MR. MARTIN: Every link is to us. Although --

08:19AM

11 MS. MCCONWELL: FAA inspector took "Hookers and
12 money", Phillip Kapp. Pomposity vs. Reality.

08:19AM

08:19AM

13 THE COURT: Pomposity?

08:19AM

14 MS. MCCONWELL: Okay. Pomposity.

08:19AM

15 MR. MARTIN: You can call me Mr. Pomposity now.

08:19AM

16 THE COURT: All right.

08:19AM

17 MS. MCCONWELL: So if you scroll, it talks about
18 Mr. Martin's opening but then it goes, but then the reality.

08:19AM

08:19AM

19 THE COURT: Wow. So somebody is really watching
20 this. You know what also too, we could find out -- but it's
21 not that everybody will be identified on the Zoom -- you know
22 how we -- it's open to the public?

08:19AM

08:19AM

08:19AM

08:19AM

23 MS. MCCONWELL: Well, what I wondered about
24 getting the document, because it would have to go into PACER
25 to get the documents.

08:19AM

08:19AM

08:19AM

1 THE COURT: Yeah. They can get it as long as 08:19AM
2 it's not sealed. Are these sealed documents? 08:19AM

3 MS. MCCONWELL: Well, no, this is the problem, 08:20AM
4 they have the ability to get -- if they get into the -- the 08:20AM
5 exhibits aren't all redacted and so we don't know how they've 08:20AM
6 been able to contact all of our employees, how they've been -- 08:20AM
7 and now they've contacted all of our boats. 08:20AM

8 MR. MARTIN: All the boats. 08:20AM

9 MS. MCCONWELL: All the tuna boats. 08:20AM

10 MR. MARTIN: Have been notified. 08:20AM

11 MS. MCCONWELL: All of the e-mails that are on 08:20AM
12 some of those documents, all those people now have been -- an 08:20AM
13 e-mail -- this e-mail which is -- and I don't know, I don't 08:20AM
14 remember where I found or got -- went to this one which is the 08:20AM
15 Aeronavigator's Advocacy Association link that is -- 08:20AM

16 THE COURT: All right. So I guess where it says 08:20AM
17 identifying link between Hansen Helicopters and Pacific 08:20AM
18 Spotters--Aeronavigators media release. I don't know if you 08:20AM
19 can see that Emily. That's... 08:20AM

20 Let's get -- we can -- what was that you 08:20AM
21 wanted -- oh -- 08:20AM

22 MS. MCCONWELL: Well, no, I wanted you to see 08:20AM
23 this just because this then has just a lot salacious things in 08:21AM
24 it. 08:21AM

25 THE COURT: What do you want us to look at? 08:21AM

1 MS. MCCONWELL: Let me show Emily what the thing 08:21AM
2 was. 08:21AM

3 LAW CLERK: This photograph, this is and exhibit 08:21AM
4 right? That's not docketed, Judge. 08:21AM

5 MS. MCCONWELL: There are a bunch of exhibit 08:21AM
6 pictures in here. 08:21AM

7 MR. MARTIN: Some of them may have been in the 08:21AM
8 media. 08:21AM

9 MS. MCCONWELL: Well those aren't docketed 08:21AM
10 though. 08:21AM

11 MR. MARTIN: Oh. 08:21AM

12 THE COURT: Is that like over at the -- is that 08:21AM
13 at the... is that at National Guard? 08:21AM

14 MR. MARTIN: No, that's one of the government 08:21AM
15 exhibits, Judge. The one at National Guard are -- 08:21AM

16 THE COURT: Okay. 08:21AM

17 MS. MCCONWELL: So if you scroll down, that's 08:21AM
18 where it's directing, it talks about a class action and 08:21AM
19 directing people to contact Mike Boler. 08:21AM

20 THE COURT: But there is no class action suit, is 08:21AM
21 there? 08:21AM

22 MR. MARTIN: No. But it's -- it's -- 08:21AM

23 THE COURT: Or there is somebody -- 08:21AM

24 MR. MARTIN: It's a solicitation for -- 08:21AM

25 THE COURT: This is former and current helicopter 08:21AM

1 staff.

08:22AM

2 MS. MCCONWELL: This is what it says but we don't
3 know this -- but it's not.

08:22AM

08:22AM

4 THE COURT: Okay. Aeronavigator Advocacy
5 Association.

08:22AM

08:22AM

6 MR. MARTIN: There is no such group as that.

08:22AM

7 MS. MCCONWELL: That purports to be the secretary
8 of this organization, we can't find him. And we can't find
9 him and the organization on Page 4.

08:22AM

08:22AM

08:22AM

10 THE COURT: So the docket, that's the CMECF
11 docket number right here that are recited?

08:22AM

08:22AM

12 MS. MCCONWELL: Yes.

08:22AM

13 THE COURT: I think we should call in the
14 prosecutors then. And just say that, you know, this is here
15 and see if they know anything about it.

08:22AM

08:22AM

08:22AM

16 MS. MCCONWELL: And one of them they have
17 referenced the motion that the prosecutor just filed, 1629,
18 which is about the alter egos.

08:22AM

08:22AM

08:22AM

19 MR. MCCONWELL: That was the exhibit yesterday
20 right there.

08:22AM

08:22AM

21 THE COURT: Okay. All right. Well, let's call
22 in the prosecutors. And Emily, you want to call them in.
23 Then we'll just... you can call them in.

08:22AM

08:22AM

08:22AM

24 MR. MCCONWELL: Actually, that's not the same
25 one, that's --

08:22AM

08:22AM

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1 MR. MARTIN: Right. It's an extract from a
2 filing and that's 1120 --

3 MR. MCCONWELL: The filing yesterday had the boat
4 number on it too.

5 (Prosecutors now present.)

6 MS. M. MILLER: Good morning, Your Honor.

7 THE COURT: The defense Counsels have asked --
8 come on in, you guys can be seated for a second. So for the
9 record, Marie Miller, Stephanie Miller and Mr. Leon Guerrero
10 are all present -- so they just came in a few minutes ago to
11 speak to me first as they weren't sure, I said, well, let's
12 see if we should call the prosecutors and we all agreed that
13 we with should. So I will leave -- you want -- who wants to
14 speak? They found something that they wanted to bring to our
15 attention.

16 MS. M. MILLER: Sure.

17 THE COURT: Go ahead. Whoever wants to speak.

18 MR. MARTIN: There is a website that was created,
19 we believe, July 27th, that is purporting to be some type of
20 aviation news website, you find it by going to *Hansen*
21 *hash[sic] Helicopter*.

22 THE COURT: And here it is.

23 MR. MARTIN: Yeah, there it is.

24 THE COURT: I asked him to put it on the big
25 screen.

1 MS. MCCONWELL: It's Hansen-Helicopters. 08:25AM

2 MR. MARTIN: And every link is something negative 08:25AM
3 about our case from the defense side. And it is -- and it's 08:25AM
4 requesting people get together for a class action lawsuit. 08:25AM
5 There are -- 08:25AM

6 MS. MCCONWELL: That they contact Mike Boler. 08:25AM

7 MR. MARTIN: And there are links to documents, 08:25AM
8 like 1629, it says latest Court filings, and it's got all 08:25AM
9 kinds of Court filings in there. It's got comments about my 08:25AM
10 opening statement and it's got -- all kinds of -- nothing bad 08:25AM
11 about you-all. And I'm not suggesting anyone had anything to 08:25AM
12 do with it. We don't know what it is. We are very concerned. 08:25AM
13 Boat companies have been contacted. This has been forwarded 08:25AM
14 to -- 08:25AM

15 MS. MCCONWELL: Employees -- and that's how we 08:25AM
16 found out about it. 08:25AM

17 MR. MARTIN: And we found out about it last 08:25AM
18 night. Had a chance to look at it last night and thought it 08:26AM
19 should be brought to the Court's attention. And I'm very 08:26AM
20 concerned that -- and if the jurors have any access to it or 08:26AM
21 have access to it or find out about it, it puts us in a very 08:26AM
22 difficult situation as far as the validity of any verdicts in 08:26AM
23 this case, Your Honor. And so that's why we came to you 08:26AM
24 because we just found out about it. But it is -- I don't know 08:26AM
25 how to find out -- I don't have the technology -- 08:26AM

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1 technological savvy to find out who posted it, how it was 08:26AM
2 done, who's behind it. But it's very concerning to us. 08:26AM
3 Particularly, at this point in the game. 08:26AM

4 MS. M. MILLER: So Your Honor, one of the 08:26AM
5 questions I would have is, is there anything on this site that 08:26AM
6 is not in the public domain or part of the public record as a 08:26AM
7 result of this trial? Because if there is not -- 08:26AM

8 MR. MARTIN: There is. 08:26AM

9 MS. M. MILLER: I mean we've had to -- I 08:26AM
10 personally have had to deal with bad press in this case when 08:26AM
11 Mr. Lujan filed his motion against me and made the comments he 08:26AM
12 made against me and my picture was in a news article and 08:27AM
13 negative things were said and, you know, I mean that's what 08:27AM
14 happens. So what is in here that's not part of the public 08:27AM
15 record? 08:27AM

16 MR. MARTIN: No disrespect to you, but you're not 08:27AM
17 on trial. Jon is on trial. 08:27AM

18 MS. M. MILLER: No, but my question is, what in 08:27AM
19 here is not -- 08:27AM

20 MR. MARTIN: I haven't had a chance to look at 08:27AM
21 everything but I will tell you there are things in there, 08:27AM
22 there are things, just like what you said, negative things 08:27AM
23 about you, negative things about Jon, there is 08:27AM
24 misrepresentations of the trial testimony in here that I've 08:27AM
25 seen. I haven't seen it all. 08:27AM

1 MS. MCCONWELL: Well, there are things that 08:27AM
2 are -- I mean whoever is doing this, is actively watching the 08:27AM
3 trial but there are things about some of the exhibits -- 08:27AM
4 MR. MARTIN: There is a Turner Kapp document. 08:27AM
5 MS. MCCONWELL: -- which have not been filed, 08:27AM
6 which aren't there as part of the public -- in the public 08:27AM
7 domain or the public record. And these links are being sent 08:27AM
8 to...I guess the world. I mean -- 08:28AM
9 THE COURT: By who, do we know? 08:28AM
10 MR. MARTIN: That's -- 08:28AM
11 MS. MCCONWELL: We don't know who's doing it. We 08:28AM
12 don't know who is behind it. 08:28AM
13 MR. MCCONWELL: E-mails have gone out. 08:28AM
14 MS. M. MILLER: From who though? 08:28AM
15 MS. MCCONWELL: From a newsletter at 08:28AM
16 hansen-helicopters.com. I don't know. 08:28AM
17 MS. M. MILLER: So Your Honor, obviously we're 08:28AM
18 not hearing that anything confidential has been put out there 08:28AM
19 that could negatively influence or unfairly influence. There 08:28AM
20 is not much we could do, you know, other than a gag order to 08:28AM
21 prevent there from being publications. Mr. Martin said, 08:28AM
22 initially, there's nothing about you-all there that is 08:28AM
23 negative, then he said well there is something about you in 08:28AM
24 there, Ms. Miller, that is negative. I have no idea -- 08:28AM
25 THE COURT: No, I think -- I'm not going -- well, 08:28AM

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1 first of all, I'm not going to issue a gag order. 08:28AM

2 MS. M. MILLER: I don't think you can't. 08:28AM

3 THE COURT: I have to look specifically -- 08:28AM

4 MS. M. MILLER: Right, right. 08:28AM

5 THE COURT: -- justify that. 08:28AM

6 MS. M. MILLER: Right, right. 08:28AM

7 THE COURT: But what I think we can do -- 08:28AM

8 MS. M. MILLER: Ask the jurors if they've seen 08:29AM
9 it. 08:29AM

10 THE COURT: I'll just do my regular questions, 08:29AM
11 about any media contact and so forth. I have that question. 08:29AM
12 And that they're to tell me immediately, and if they say 08:29AM
13 nothing, then that's fine, we just leave it at that. But in 08:29AM
14 the meantime, you guys can investigate this, look at it 08:29AM
15 carefully both sides. 08:29AM

16 MS. M. MILLER: Absolutely. 08:29AM

17 THE COURT: But I don't want to be looking for 08:29AM
18 something myself. I don't -- you know, unless there is 08:29AM
19 something that you show me right now that is egregious, like 08:29AM
20 something sealed has now been published, that would concern 08:29AM
21 me. 08:29AM

22 MR. MARTIN: Well, let's say -- for example, 08:29AM
23 Judge, we know that we've been advised -- I don't want to say 08:29AM
24 now, we have been advised that this has been forwarded to 08:29AM
25 various boat companies that have contracts with Mr. Walker. 08:29AM

1 THE COURT: Oh, currently? 08:29AM

2 MR. MARTIN: Currently, by e-mails. And the only 08:29AM
3 way they could have -- we believe the only way they could have 08:30AM
4 gotten those e-mails would be off of exhibits that have been 08:30AM
5 published in Court, because that's the only place I know that 08:30AM
6 they there are unless they're in a court filing. 08:30AM

7 MS. MCCONWELL: Which I don't believe they are. 08:30AM

8 MR. MARTIN: This is an extensive website. I 08:30AM
9 haven't looked at all of it. 08:30AM

10 THE COURT: Well, how many employees are 08:30AM
11 currently working for Hansen Helicopters? 08:30AM

12 MR. MARTIN: Well, however many -- however many 08:30AM
13 helicopters there are. 08:30AM

14 MS. MCCONWELL: I don't know because we have W-2 08:30AM
15 and then there'd be potentially 1099. 08:30AM

16 THE COURT: Okay, so what, 10, 20, 100? I mean 08:30AM
17 it could be an inside job too, somebody is disgruntled. 08:30AM

18 MR. MARTIN: I'm not saying that it isn't, Your 08:30AM
19 Honor, I'm just saying we found it, it was a concern. 08:30AM

20 THE COURT: Yeah, of course. 08:30AM

21 MR. MARTIN: We wanted to bring to your attention 08:30AM
22 first. 08:30AM

23 THE COURT: Totally understand. 08:30AM

24 MR. MARTIN: And then get the prosecution 08:30AM
25 involved. We'd like for it be stopped. It's, you know, 08:30AM

1 totally inappropriate and there is nothing in there --

08:30AM

2 MS. MCCONWELL: He didn't mean there was anything
3 in there negative about you, Marie.

08:30AM

08:30AM

4 MR. MARTIN: No.

08:30AM

5 THE COURT: This is my point, I think you guys
6 have got to do your due diligence and investigate it, file a
7 motion. If you want me to issue an order, just file it and
8 I'll look at it, both parties can -- I don't want, of course
9 understanding amendment laws.

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10 MR. MARTIN: The problem is, who do we issue an
11 order against?

08:31AM

08:31AM

12 THE COURT: I don't know, because I don't even
13 know what the issue is, so you guys have to tell me what the
14 problem is. You're upset because -- and rightly so, because
15 this is coming out. But the question is, what is the real
16 issue for me to act upon? So unless and until you tell me
17 what it is, I can't do anything. But I will out of abundance
18 of caution just talk to the jurors, not alert them to
19 anything. I'll just say, hey, just wanted to go back to my
20 long instruction about making sure that you decide this case
21 solely on the evidence before you.

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22 MR. MARTIN: My concern, Judge, and the reason I
23 brought it to your attention, not to blame anyone but my
24 concern is, make sure that this doesn't impact the validity of
25 any verdict in this case and I don't want to have to come back

08:31AM

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1 at a later date. I want to try to be proactive on it and
2 that's why I brought it to everybody's attention.

3 THE COURT: No, so I appreciate that. I think
4 we're fine, but you have to investigate it. You have to look
5 at it carefully and see if there is any violation. And if
6 there is anything that the Court has the authority to do, I'll
7 look at that. Okay?

8 MS. M. MILLER: Yes.

9 MR. MARTIN: Sure.

10 THE COURT: Yeah, so you guys just have to do
11 your due diligence, both sides. I think both sides because
12 prosecution should find out if there is anybody doing anything
13 to sabotage your own case. I have no idea. This is like a
14 whole... looks like somebody is really definitely looking at
15 this case.

16 MR. MARTIN: I mean --

17 THE COURT: It's a whole website for this.

18 MR. MARTIN: It looks like it's some type of an
19 aviation -- if you go to the very top, it looks like it's some
20 type of an aviation industry update and that's --

21 THE COURT: I don't know anything about the
22 aviation world but is that -- is that --

23 MR. MARTIN: That is not -- apparently that is
24 not a --

25 THE COURT: Standard? Commonly known?

1 MR. MARTIN: It doesn't exist. 08:33AM

2 THE COURT: Oh, okay. 08:33AM

3 MS. MCCONWELL: The Aeronavigator doesn't exist
4 either. 08:33AM

5 MR. MARTIN: It's just something somebody made
6 up. 08:33AM

7 MS. MCCONWELL: Aeronavigator Advocacy
8 Association doesn't exist. 08:33AM

9 THE COURT: Oh, Aeronavigator media release,
10 whoever that is. Yeah, and we could always look at -- I mean
11 you could always ask to look at who's zooming in on the trial. 08:33AM
12 We have a list -- I could -- I could tell ask Chuck. You guys
13 can look at my listing. I have an idea like who -- but that
14 doesn't mean that they're telling the truth either. 08:33AM

15 MR. MARTIN: Anybody could put down Bill Smith
16 and watch. 08:33AM

17 THE COURT: If they're trying to be deceptive,
18 they're -- 08:33AM

19 MS. MCCONWELL: Could we find out who accesses
20 our case on PACER or gets documents? 08:33AM

21 THE COURT: We could check. Is that public
22 record? 08:33AM

23 MS. MCCONWELL: I have no idea. I highly doubt
24 it. We don't run PACER out of here, you know it's like -- 08:33AM

25 THE COURT: It's run out of DC. I don't even 08:34AM

1 know if it's out of DC but it's administrative office. It's a
2 good question. We could find out. I can look but... but,
3 okay, so let me call -- we'll call the jurors in and how much
4 time do you need with your next --

5 MS. M. MILLER: It'll probably be a half hour.

6 THE COURT: Okay. Let's do it.

7 MS. M. MILLER: And Your Honor, before we go in,
8 one thing that I will ask, just to allow this to go much more
9 smoothly so that we can finish this week, when there is an
10 objection, I would like, first of all, the privilege of being
11 able to finish my question, then if Counsel will say
12 objection, and state the legal basis only of the objection,
13 that will then give me an opportunity to respond to the legal
14 basis only of the objection. But if Counsel stands up and
15 starts with a long-speaking objection, then I'm put in a
16 position of having to respond. And one example that I think
17 really stands out to me is a comment made by Mr. Martin that
18 Jon Walker did not produce Exhibit 829 to the government. And
19 that wasn't true, because 829 was in fact an attachment to an
20 ECF that was signed by Mr. Martin on behalf of Jon Walker. So
21 once he makes that comment in the presence of the jury and the
22 jury hears that comment, he's attacking my credibility as an
23 officer of the Court. When I ask the question, a document
24 that the defendant themselves provided to the government and
25 to the Court that we should be able to rely on if it was

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1 provided by them as an officer of the Court.

2 But then to not allow me to respond to correct
3 it, or more importantly, not be able to establish that what
4 Mr. Martin said was absolutely not correct or true, creates a
5 problem for the prosecution. So I think to avoid this and
6 it's on both sides, when they do their cross-examination, I
7 will object. I will state the legal basis for my objection
8 and I will stop and then they could respond and Your Honor can
9 rule.

10 THE COURT: I agree it is for both sides, but I
11 will say this that when you guys start saying, well, it was a
12 filed documents, sometimes I don't know if I struck any part
13 of it. So we have to go back and look at it, you know. I
14 mean, it takes a while. There's lots and lots of document
15 filed here, so I don't want to sit there and get into a
16 investigation into all this. That's why I say, okay, I don't
17 need to hear that, let's move on. And that's why I may cut
18 you off. But I do agree that, you know, you could -- Counsel
19 could say, well, it has been previously provided or it hasn't
20 been and you could say it's previously provided in other filed
21 documents. You could say that. But we don't have to get into
22 like -- because the jurors are like what, what are they
23 talking about?

24 MR. MARTIN: Your Honor, I want the record to
25 reflect the document she's talking about was attached to an

1 e-mail to Rufus Crowe.

08:36AM

2 MS. M. MILLER: No.

08:36AM

3 MR. MARTIN: Just because I attached it, if I
4 did, I don't remember attaching it, to a pleading in our case,
5 doesn't mean Mr. Walker produced it. And I take issue with
6 her representing I did something, when if Mr. Crowe does
7 something or Mr. Lujan does something on his behalf, that
8 doesn't mean Jon Walker.

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9 THE COURT: Okay. So rather than get into the
10 intricacies and the complexities of that situation, because he
11 says he's got his defense, you say you got -- because I don't
12 want to sit there and investigate this. This is like a side
13 issue for me. You know, it's just a distraction. And so you
14 may be right, you may be wrong. I don't know. Because I
15 don't want to sit here and rule on that.

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16 But my point is, I agree, let the person make
17 their objection and then if you feel -- if you feel there is
18 an objection, you could stand up, so I could tell the witness
19 don't answer. And usually, sometimes the witnesses want to
20 answer, just slip it in or sometimes if I say just don't
21 answer, let's listen to the question, then let me hear the
22 objection. Let's do it that way.

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23 MS. M. MILLER: And also, Your Honor,
24 Ms. McConwell continually objects on the basis of form. Form
25 is not a valid legal objection to a question in a criminal

08:37AM

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08:37AM

1 trial. If she needs to object, is it relevance? Is it 08:38AM
2 leading, is it speculation? Form is an objection that's made 08:38AM
3 in a civil deposition to preserve a ruling at a later date, 08:38AM
4 but it is an inappropriate legal basis. And if the Ninth 08:38AM
5 Circuit looks at this, that objection means nothing. So it 08:38AM
6 needs to be an objection based on one of the rules of the 08:38AM
7 federal rules of evidence that say, you can't lead, unless 08:38AM
8 it's foundational, hearsay, relevance; that kind of thing. 08:38AM

9 MR. MARTIN: Your Honor, I'll object for whatever 08:38AM
10 basis I feel. If I feel like I'll need to object on behalf of 08:38AM
11 my client and if I think it's form, I'm going to do it in 08:38AM
12 spite of the lecture. 08:38AM

13 THE COURT: Okay. Let me say, all right, I don't 08:38AM
14 necessarily disagree with Ms. Martin -- I mean Ms. Miller, but 08:38AM
15 let's just say, if they want to make an objection on form, let 08:38AM
16 them do it. And I'll just -- if they want to preserve it, 08:38AM
17 that's fine. 08:38AM

18 MS. M. MILLER: But here's the problem -- 08:38AM

19 THE COURT: Whether it's appropriate or not -- 08:39AM

20 MS. M. MILLER: How do I respond to an objection 08:39AM
21 based on form? 08:39AM

22 THE COURT: But basically, her only -- those 08:39AM
23 objections were like, look, it really doesn't apply to me and 08:39AM
24 my client, it doesn't apply to Hansen Helicopters, but I just 08:39AM
25 want to place on the record that -- she's concerned about -- 08:39AM

1 like a concern I thought was legitimate was the redaction of
2 private materials of third-party custodian.

3 MS. M. MILLER: And we have no objection to that
4 but that is not a form objection.

5 THE COURT: Okay. So however -- however it's
6 stated, I got it. Sometimes a judge could say, okay, it may
7 not have been stated the way it should be, but I got it.

8 MS. M. MILLER: But it is the parties'
9 responsibility to preserve the record for their client. And
10 if they don't know how, that's their problem, No. 1. No. 2 --
11 No. 2, we know we have preserved the issue of alter ego --
12 excuse me, if you don't want me talking over you, you have to
13 give me the same privilege.

14 THE COURT: Okay. You guys, we have to hurry up
15 because the jurors have been waiting. Let's go.

16 MS. M. MILLER: No. 2, she's already stated these
17 counts aren't against my client a thousand times. The jury
18 knows that. You'll instruct them. However, if it's not
19 against her client and you've asked -- been asked and you've
20 given that instruction over and over again, she shouldn't be
21 objecting. She shouldn't be objecting anyway because she's
22 not going to do the cross-examination, Mr. McConwell is. But
23 you've given them that privilege, fine, no problem.

24 THE COURT: I'll give it to both you guys --

25 MS. M. MILLER: But she should not be objecting

1 if the counts do not apply to her client, which they don't. 08:40AM
2 However, here's the other issue that's come up in this case 08:40AM
3 which is very unusual: We have a witness, his role in this 08:40AM
4 case is the conspiracy to commit wire fraud, we all know or 08:40AM
5 should know that underlying a wire fraud is another fraud, a 08:40AM
6 criminal violation that underlies the transfer of money from 08:40AM
7 one place to another. We have alleged repeatedly in our 08:40AM
8 superseding indictment and in all of our argument that Hansen 08:41AM
9 Helicopters is a key actor here. So we're just -- we're 08:41AM
10 creating a very muddy record with objections that are not 08:41AM
11 valid and -- anyway, so my whole point is this, Your Honor, 08:41AM
12 let me finish a question, there is an objection. 08:41AM

13 THE COURT: Well, I think it goes to both. 08:41AM

14 MS. M. MILLER: Both sides. 08:41AM

15 THE COURT: I will say I agree with that. Now on 08:41AM
16 her -- you want to speak on your behalf, Ms. McConwell? 08:41AM

17 MS. MCCONWELL: Well, I didn't make one form 08:41AM
18 objection yesterday. 08:41AM

19 MS. M. MILLER: You did, but that's in the 08:41AM
20 record. 08:41AM

21 MS. MCCONWELL: I don't recall saying I object to 08:41AM
22 the form of the question in any of my objections, but -- 08:41AM

23 THE COURT: Okay. Well, putting that aside -- 08:41AM

24 MS. MCCONWELL: I said foundation plenty of 08:41AM
25 times, and so I hear what your comment is and I hear what your 08:41AM

1 concern is, but we have a duty to represent our client. 08:41AM

2 MS. M. MILLER: No doubt. 08:41AM

3 MS. MCCONWELL: And you interjected Hansen 08:41AM
4 Helicopters repeatedly to counts we're not involved in so... 08:41AM

5 THE COURT: Yeah, you guys, just focus on your 08:41AM
6 own objections and let's focus on civility in the courtroom. 08:41AM
7 I think that's what counts. And we will get this trial done 08:42AM
8 with. 08:42AM

9 MR. MARTIN: So we -- 08:42AM

10 MS. M. MILLER: This week? 08:42AM

11 MR. MARTIN: Could we ask you-all advise your 08:42AM
12 witness that if he sees us stand up, to avoid answering the 08:42AM
13 question so that we don't have to -- he gets in a hurry. 08:42AM

14 MS. M. MILLER: Well, I think part of it is just 08:42AM
15 his personality. 08:42AM

16 MR. MARTIN: Could you ask him? 08:42AM

17 MS. M. MILLER: There are also times, Mack, when 08:42AM
18 you stand up and you don't object and you change your mind and 08:42AM
19 sit down. I'm not going to tell my witness to stop talking 08:42AM
20 every time you stand up. If you have an objection, let me 08:42AM
21 finish my question. First of all, I have to be able to finish 08:42AM
22 my question. 08:42AM

23 THE COURT: I think that goes to all of you. 08:42AM

24 MS. M. MILLER: -- hear my question then stand up 08:42AM
25 and say objection, as opposed to -- 08:42AM

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1 MR. MARTIN: Marie, I'm asking can you ask your 08:42AM
2 witness, if he sees me stand, to not answer until -- 08:42AM
3 THE COURT: You know what, I will tell the 08:42AM
4 witness that. It's probably better it comes from the Judge. 08:42AM
5 MR. MARTIN: Fine. 08:42AM
6 THE COURT: But, yeah, I mean it's not that he's 08:42AM
7 that guilty all the time but he does get a little excitable. 08:42AM
8 MS. M. MILLER: It's his personality. And he's 08:42AM
9 also focusing on me, he's looking at the jury. And like I 08:43AM
10 said, there have been moments when both of them have stood up 08:43AM
11 and then they changed their mind and they sit down, and I -- 08:43AM
12 we want to get this case tried and we want to get moving. 08:43AM
13 THE COURT: Team, we're almost there. 08:43AM
14 MS. M. MILLER: Let's go in and do it. 08:43AM
15 THE COURT: We don't want any issues. 08:43AM
16 MS. M. MILLER: No. 08:43AM
17 THE COURT: We don't want COVID. 08:43AM
18 MS. M. MILLER: Lord no. 08:43AM
19 THE COURT: Lord no, please. 08:43AM
20 MS. M. MILLER: Lord no. 08:43AM
21 THE COURT: We don't want any what's that, not 08:43AM
22 deviant. It's not deviant. 08:43AM
23 MS. MCCONWELL: Variant. 08:43AM
24 THE COURT: Variant. Not deviant. 08:43AM
25 MS. M. MILLER: Oh, COVID variant. 08:43AM

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1 THE COURT: We don't need another variant. 08:43AM

2 MS. M. MILLER: Or Monkey Pox. I don't know what 08:43AM
3 Monkey Pox even is. 08:43AM

4 MR. MCCONWELL: You don't want to go to the 08:43AM
5 definitions. 08:43AM

6 THE COURT: I was on a trip with my child -- my 08:43AM
7 grandchild and they thought he might have Monkey Pox but he 08:43AM
8 didn't have it. 08:43AM

9 MS. M. MILLER: I don't even know what it is. 08:43AM

10 MS. MCCONWELL: Google it. So I do have one 08:43AM
11 question -- from Hansen Helicopters, I mean we want the phone 08:43AM
12 numbers, e-mails and then I think we're taking care of the 08:44AM
13 bank records redacted, because the only way this stuff gets 08:44AM
14 out there is because of what's in -- what exhibits that have 08:44AM
15 been -- in this trial. 08:44AM

16 THE COURT: Let me say this, because we don't 08:44AM
17 know who's doing this, we don't know how they're getting this 08:44AM
18 information, but to the extent that you want me to do 08:44AM
19 something, you guys tell me what needs to be done, what you 08:44AM
20 find, so put it in a motion. 08:44AM

21 MS. MCCONWELL: Okay, I will do that. 08:44AM

22 THE COURT: Just do that. In the meantime, I 08:44AM
23 will check about if it's public record about CM/ECF which I 08:44AM
24 doubt, but who knows, but it is public accessible. And then 08:44AM
25 we'll take it from there. To the extent that if you want to 08:44AM

1 have access to who Zooms in every day? 08:44AM

2 MS. MCCONWELL: I didn't even know if Zoom was 08:44AM

3 supposed to be recorded. 08:44AM

4 THE COURT: It's not recorded. 08:44AM

5 MS. MCCONWELL: But someone who watches it may 08:44AM

6 record it. 08:44AM

7 THE COURT: They're not supposed to. 08:44AM

8 MS. M. MILLER: How can the Judge control that? 08:44AM

9 THE COURT: They're not supposed to record it and 08:45AM

10 republish it, that's the thing. That's against the federal 08:45AM

11 stuff. But you know what, who knows what people do. They do 08:45AM

12 whatever the hell they want. 08:45AM

13 MR. MCCONWELL: Even on PACER, I don't think you 08:45AM

14 can reproduce it and use it like that. 08:45AM

15 THE COURT: I don't know. I have to ask my IT 08:45AM

16 guys, do you know? Could they record -- they can't record? 08:45AM

17 (Discussion with law clerk.) 08:45AM

18 THE COURT: They could screenshot it, who knows. 08:45AM

19 I don't know, but we'll work with you. 08:45AM

20 MR. MARTIN: We don't have where this is -- who 08:45AM

21 sets this up, where it's coming from, the IP address; things 08:45AM

22 like that. 08:45AM

23 THE COURT: Let me just say, to the extent that 08:45AM

24 there needs to be an investigation, you got to put it in a 08:45AM

25 motion and if I have to ask FBI or whoever or even my own IT 08:45AM

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1 people, I'll do that.

08:45AM

2 But just put it in writing because I can't speak

08:45AM

3 -- just speak out of nowhere.

08:45AM

4 MR. MCCONWELL: Given Mr. Boler's involvement
5 with SEIT and manager involved in this case.

08:46AM

08:46AM

6 THE COURT: Who is this?

08:46AM

7 MR. MCCONWELL: Mike Boler. He was supposed to
8 be a witness, him and Dymock were supposed to be witnesses for
9 SEIT.

08:46AM

08:46AM

08:46AM

10 THE COURT: Okay.

08:46AM

11 MR. MCCONWELL: Given their reference in e-mails,
12 say e-mail them, that caused me some serious concern because I
13 have some opinions about the SEIT team and practices in
14 general, but that opens up a lot of -- terrible questions.

08:46AM

08:46AM

08:46AM

08:46AM

15 THE COURT: But you guys can all have your own
16 theories and your own suspicions --

08:46AM

08:46AM

17 MS. M. MILLER: Right.

08:46AM

18 THE COURT: Yeah, it's okay, it's understandable.
19 You guys have been living and breathing this case, but the
20 question is what evidence you have, if you have it, send it to
21 me and I'll act on it. Okay, we'll call the jury in.

08:46AM

08:46AM

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08:46AM

22 MS. M. MILLER: Thank you, Your Honor.

08:46AM

23 (Off the record at 8:46 a.m.)

08:46AM

24 (Back on the record at 8:52 a.m.)

08:46AM

25 THE CLERK: Good morning, Your Honor. This is

09:11AM

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1 Criminal Case No. -- I'm sorry, one moment.

09:11AM

2 (Feedback.)

09:11AM

3 THE CLERK: Criminal Case No. 18-00010, *United*
4 *States of America v. John D. Walker* and Hansen Helicopters;
5 Jury Trial, Day 29.

09:11AM

6 Counsel, please state your appearances, beginning
7 with the government.

09:11AM

8 MR. LEON GUERRERO: *Buenas* and *hafa adai*, Your
9 Honor, Stephen Leon Guerrero on behalf of the United States.
10 Also present are Special Assistant U.S. Attorneys Marie Miller
11 and Samantha Miller for the government.

09:11AM

09:11AM

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09:11AM

12 MS. M. MILLER: *Hafa adai*, Your Honor.

09:11AM

13 MS. S. MILLER: Hi.

09:11AM

14 MR. MARTIN: Morning, Your Honor, Mack Martin
15 appearing with Jon Walker who's also present.

09:11AM

09:11AM

16 THE COURT: Good morning, Mr. Walker and
17 Mr. Martin.

09:11AM

09:11AM

18 MR. MCCONWELL: Good morning, Your Honor, Edward
19 McConwell, Laura McConwell and Edward Han for Hansen
20 Helicopters. Is my mic working okay?

09:11AM

09:11AM

09:11AM

21 THE COURT: What's that?

09:11AM

22 MR. MCCONWELL: Is my mic going to work okay?

09:11AM

23 THE COURT: Oh, yes, you sound very nice. And
24 then Mr. Han, yes. Good morning, everyone. Okay. So we just
25 had a slight delay. We had to take care of a legal matter

09:11AM

09:12AM

09:12AM

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1 which we'll continue a little later and we'll go ahead and
2 call in the jurors at this time.

3 And, Ms. Miller, how much time do you have with
4 this witness?

5 MS. M. MILLER: Half an hour, Your Honor.

6 THE COURT: Half an hour. Anything further?
7 Yes, Mr. Martin?

8 MR. MARTIN: Your Honor, were you going to
9 instruct the witness about objections?

10 THE COURT: Oh, right. So, yeah, so I'm going to
11 instruct you as well as all other witnesses, if the defense
12 Counsels stand up, that means they're getting ready with an
13 objection so just don't answer until I tell you it's okay.

14 THE WITNESS: Yes, ma'am. Yes, Your Honor.

15 THE COURT: Because the prosecution needs to
16 hear -- well she needs to -- well in this case, the prosecutor
17 needs to state the question, then the defense need to
18 formulate the objection. Then -- and then I need to rule on
19 it, then I could just tell what to answer.

20 THE WITNESS: My apologies. I was so focused on
21 the jury, I didn't see it so...

22 THE COURT: Don't worry about it. We'll follow
23 protocol here. Okay, we'll call in the jury.

24 (Jury in at 9:13 a.m.)

25 THE COURT: Please be seated. *Hafa adai*. Good

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1 morning, everyone. How are we doing, ladies and gentlemen? 09:13AM

2 All right. I apologize for the delay, I had to work on some 09:13AM
3 legal issues with the lawyers and we just completed it and it 09:13AM
4 was important enough that I'm sorry I had to delay the trial 09:13AM
5 for a little bit, but we are ready to proceed. The United 09:13AM
6 States Attorney, Ms. Miller, has indicated that she has about 09:13AM
7 30 minutes left in direct examination of this witness. You 09:13AM
8 may proceed. 09:13AM

9 MS. M. MILLER: Thank you, Your Honor. 09:13AM

10 THE COURT: Okay. 09:13AM

11 BY MS. M. MILLER: (CONTINUING) 09:13AM

12 Q. Mr. Khamvongsa, Special Agent Khamvongsa, I 09:14AM
13 apologize, and good morning, members of the jury. Thank you 09:14AM
14 for your patience. Could you tell the members of the jury, do 09:14AM
15 all the transactions that we discussed yesterday, both in the 09:14AM
16 crime fraud -- crime -- I'm sorry, wire fraud counts and the 09:14AM
17 money laundering counts, do they all exceed \$10,000? 09:14AM

18 A. Yes. 09:14AM

19 Q. And do they all involve the movement of money 09:14AM
20 interstate or internationally? 09:14AM

21 THE WITNESS: Yes. 09:14AM

22 BY MS. M. MILLER: (CONTINUING) 09:14AM

23 Q. Could you tell the members of the jury what was the 09:14AM
24 source of all of the funds for the counts in the Second 09:14AM
25 Superseding Indictment regarding wire fraud and money 09:14AM

Direct - Khamvongsa

1 laundering?

2 A. Leasing of the helicopters and pilots and mechanics.

3 Q. I'd like to show you and the jury two exhibits that
4 were entered into evidence yesterday, one is Exhibit 750. And
5 the other is Exhibit 31. And to refresh your memory,
6 Exhibit 750 is a letter that Jon Walker sent to the FAA in
7 2020 and Exhibit 31 is the Walker Agricola bank account. May
8 I publish a portion of those two exhibits to the jury, Your
9 Honor?

10 THE COURT: Right, that's fine. Counsels, have
11 you been able to pull that? And then are there any objections
12 to that?

13 MS. M. MILLER: They're both entered.

14 THE COURT: Oh, they're both entered?

15 MS. M. MILLER: Yes, Your Honor.

16 THE COURT: Go ahead and publish then. Thank
17 you.

18 MS. M. MILLER: Okay.

19 BY MS. M. MILLER: (CONTINUING)

20 Q. So, Special Agent Khamvongsa, could you tell the
21 members of the jury what do you see about the addresses used
22 both for the Walker Agricola bank account that the
23 \$7.5 million was moved into, and the address that was included
24 in the letter that Jon Walker sent to the FAA?

25 A. They both reflect 3561 Route C, Neosho, Missouri,

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1 64850. The same address.

09:15AM

2 Q. Thank you, sir. Now, can you tell the members of the
3 jury who issued all of the airworthiness certificates for
4 every single aircraft that was involved in the wire fraud and
5 money laundering counts?

09:15AM

09:15AM

09:15AM

09:15AM

6 A. Mr. Cislo.

09:15AM

7 Q. Where did the funds for the airplane that he received
8 come from?

09:15AM

09:16AM

9 A. The Caledonian agency Inc., bank account.

09:16AM

10 Q. Who's the president of that business?

09:16AM

11 A. Mr. Jon Walker.

09:16AM

12 Q. Who's the signer of that account for that business?

09:16AM

13 A. Mr. Jon Walker.

09:16AM

14 Q. Okay. I'd like to show you what has been previously
15 entered into evidence as Exhibit 366.

09:16AM

09:16AM

16 THE COURT: Admitted as well?

09:16AM

17 MS. M. MILLER: It has been admitted, Your Honor.

09:16AM

18 MS. MCCONWELL: I only have that certain pages
19 are admitted, I don't that the whole exhibit is admitted.

09:16AM

09:16AM

20 MS. M. MILLER: And I have that the whole thing
21 has been admitted, Your Honor.

09:16AM

09:16AM

22 THE COURT: All right. 366 in total.

09:16AM

23 MS. M. MILLER: You don't though --

09:16AM

24 THE COURT: Hold on, hold on.

09:16AM

25 MS. M. MILLER: So we'll lay the foundation.

09:16AM

1 THE COURT: All right. Hold on, hold on. Let's
2 find out. Carmen, what do we have? 366, has that been
3 admitted?

4 THE CLERK: I have pages only 2, 37 and 38, Your
5 Honor.

6 THE COURT: 237 and 238 are the only --

7 THE CLERK: No, 2.

8 THE COURT: Oh, 37 and 38?

9 THE CLERK: Yes.

10 THE COURT: You want to check that, Ms. Miller?

11 MS. M. MILLER: So what I will do, Your Honor, is
12 lay the foundation for the admission of the rest of the
13 documents.

14 THE COURT: Very well.

15 MS. M. MILLER: It could be that what we were
16 doing when it was first admitted was just covering those
17 pages.

18 THE COURT: And you want all --

19 MS. M. MILLER: All of it, yes, and we've already
20 laid the foundation, but if I need to lay it again, I can.

21 THE COURT: Go ahead.

22 MS. M. MILLER: Okay.

23 BY MS. M. MILLER: (CONTINUING)

24 Q. Special Agent Khamvongsa, could you tell the members
25 of the jury what is this document?

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1 A. (No response.)

2 MS. MCCONWELL: I -- Your Honor, I don't know
3 that that's the proper way to lay the foundation just to say,
4 okay, what's the document? I mean I think she needs to lay
5 the foundation with the admission of the rest pages she's
6 interested in without having him talk about the document.

7 THE COURT: Okay. Overruled. Go ahead. He's
8 not going to -- you can't talk about what it is, just do you
9 recognize it. Okay. Go ahead.

10 MS. M. MILLER: Thank you, Your Honor.

11 BY MS. M. MILLER: (CONTINUING)

12 Q. Could you please tell the members of the jury what is
13 this document, sir?

14 A. This is an e-mail.

15 Q. Okay. And the attachments to the e-mail?

16 A. Yes.

17 Q. Okay. And could you tell the members of the jury how
18 the government obtained this document?

19 A. This was obtained from the search warrant in
20 October 2016.

21 Q. And is it a true and correct copy of what was
22 obtained via the search warrant?

23 A. Yes.

24 MS. M. MILLER: Your Honor, at this time the
25 government would move into evidence the remainder of

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1 Exhibit 366.

2 THE COURT: All right. So for the record, what
3 is the remainder? Can you tell me what that is?

4 MS. M. MILLER: Yes, Your Honor, it is an e-mail
5 with attachments from Rufus Crowe at Hansen Helicopters.

6 THE COURT: Right.

7 MS. M. MILLER: To Tom Ferruzzo. And it's dated
8 October 5, 2016 and the attachments include Hansen
9 Helicopter's information including aircraft information --

10 THE COURT: Okay. I just need to know the
11 numbers, what is it?

12 MS. M. MILLER: Oh, yeah, so the pages are
13 actually Page 1 through -- give me one second, Your Honor.

14 MS. MCCONWELL: A 102 pages.

15 MS. M. MILLER: I'm going to be using Pages 1
16 through 98. It's a 102 pages.

17 THE COURT: But you only need 1 through 98?

18 MS. M. MILLER: Yes.

19 THE COURT: All right. So prosecution is moving
20 only Pages 1 through 98 but there have been two other pages
21 that have already been previously admitted. So no objections,
22 Counsels?

23 MR. MARTIN: May I approach a minute and talk to
24 prosecution, Your Honor?

25 THE COURT: Yes, you may.

1 (Pause.) 09:20AM

2 MR. MARTIN: No objection, Your Honor. 09:20AM

3 THE COURT: Ms. McConwell? 09:20AM

4 MS. MCCONWELL: (No response.) 09:20AM

5 THE COURT: Bring your mic a little closer, 09:20AM

6 please, to your -- yeah. Okay. There you go. Go ahead. 09:20AM

7 Yes? 09:20AM

8 MS. MCCONWELL: Your Honor, I would ask that any 09:20AM

9 sensitive information be redacted from the pages that are 09:20AM

10 going to be admitted. 09:21AM

11 THE COURT: Okay. 09:21AM

12 MS. MCCONWELL: Based on our conversation 09:21AM

13 yesterday. And with that, I'm assuming it is only admitted to 09:21AM

14 Mr. Walker, and not to Hansen Helicopters. 09:21AM

15 THE COURT: Very well. The Court then will admit 09:21AM

16 this exhibit, No. 366, Pages 1 through 98, without objection. 09:21AM

17 And with this proviso that any sensitive third-party 09:21AM

18 information be redacted and it's specifically as to 09:21AM

19 Mr. Walker. 09:21AM

20 (Exhibit 366-1 through 98 admitted.) 09:21AM

21 MR. MCCONWELL: Very well. 09:21AM

22 THE COURT: You may proceed. 09:21AM

23 MS. M. MILLER: May I publish Page 1, Your Honor? 09:21AM

24 THE COURT: You may. 09:21AM

25 MS. M. MILLER: And, Ms. Miller, could you please 09:21AM

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1 hone in on that first top portion?

09:21AM

2 BY MS. M. MILLER: (CONTINUING)

09:21AM

3 Q. Special Agent Khamvongsa, who is this e-mail from?

09:21AM

4 A. It's from Mr. Crowe.

09:21AM

5 Q. And his e-mail address?

09:21AM

6 A. Rufus@hansenhelicopters.com.

09:21AM

7 Q. And who is it to?

09:22AM

8 A. Mr. Ferruzzo.

09:22AM

9 Q. Okay. And what is the date?

09:22AM

10 THE WITNESS: The date is October 5th, 2016.

09:22AM

11 BY MS. M. MILLER: (CONTINUING)

09:22AM

12 Q. And there is a reference to attachments?

09:22AM

13 A. Yes, several attachments.

09:22AM

14 Q. Okay. And we're going go through those attachments.

09:22AM

15 First, can you please tell the jury, did you see other

09:22AM

16 evidence in this case that explained the purpose of this

09:22AM

17 communication?

09:22AM

18 A. Yes.

09:22AM

19 Q. What was it?

09:22AM

20 A. It was another e-mail, this is in response -- all
21 this information is in response to requests as it relates to
22 purchase of Hansen Helicopters.

09:22AM

09:22AM

09:22AM

23 Q. Okay. Was Hansen at this point trying to sell the
24 company?

09:22AM

09:22AM

25 A. Yes.

09:22AM

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1 MS. MCCONWELL: Your Honor, this calls for 09:22AM
2 speculation. 09:22AM
3 MS. M. MILLER: Your Honor, it doesn't call -- 09:22AM
4 THE COURT: Wait just a minute. The objection is 09:22AM
5 speculation? 09:22AM
6 MR. MARTIN: The -- he's testified as to his 09:22AM
7 interpretation of an e-mail, Your Honor. And our objection is 09:22AM
8 speculation. 09:22AM
9 MS. M. MILLER: Your Honor -- 09:22AM
10 THE COURT: Okay. Wait, wait. Are there any 09:22AM
11 other objections? 09:22AM
12 MR. MARTIN: No, Your Honor. 09:22AM
13 THE COURT: Ms. McConwell? 09:22AM
14 MS. MCCONWELL: (Shook head.) No. 09:23AM
15 THE COURT: Okay. Yes? 09:23AM
16 MS. M. MILLER: Yes, Your Honor, it's not 09:23AM
17 speculation. What he referenced is there other evidence that 09:23AM
18 has already been introduced that shows that this e-mail is in 09:23AM
19 response to another e-mail requesting information about 09:23AM
20 purchasing Hansen. If we need to go back -- 09:23AM
21 THE COURT: I'm sorry? 09:23AM
22 MS. M. MILLER: -- to that other document, we 09:23AM
23 can. 09:23AM
24 THE COURT: I think you need to do that. 09:23AM
25 Objection will be sustained. And the objection will be 09:23AM

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1 sustained and the jurors are to disregard the last question,
2 last answer. But if you need to go back, go back and do it
3 that way.

4 MS. M. MILLER: We will.

5 MS. MCCONWELL: And the colloquy which we
6 discussed which we weren't going to be doing.

7 THE COURT: I'm sorry? Which one?

8 MS. MCCONWELL: I thought we all had an agreement
9 we weren't going to be make long speaking objections and
10 responses.

11 THE COURT: Okay.

12 MS. M. MILLER: Well, Your Honor, that was not a
13 long speaking objection. I'm trying to --

14 THE COURT: Right now it's long enough. Hey,
15 let's go. Move on. I already made my ruling. Let's go by
16 the rules, team.

17 MS. M. MILLER: Yup.

18 THE COURT: Wow. I came back on Saturday, Sunday
19 night from a long trip to Washington, D.C. and I came in
20 Monday morning, I feel like I never left you. I should be jet
21 lagged.

22 MS. M. MILLER: You're not though.

23 THE COURT: I know. I feel like I should be but
24 go ahead.

25 MS. M. MILLER: It's easier not to be coming

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1 here. It's harder when you go stateside. 09:24AM

2 BY MS. M. MILLER: (CONTINUING) 09:24AM

3 Q. So we're going to look at Exhibit 425, Your Honor, 09:24AM
4 which has already been entered into evidence. And Special 09:24AM
5 Agent Khamvongsa, could you please tell the members of the 09:24AM
6 jury, what do you see here in terms of who this e-mail is 09:24AM
7 from? 09:24AM

8 A. It's from Mr. Ferruzzo. 09:24AM

9 Q. And is that the same gentleman we just saw on the 09:24AM
10 e-mail on Exhibit 366? 09:24AM

11 A. Yes. 09:24AM

12 Q. And who is it to? 09:24AM

13 A. It's to Mr. Crowe. 09:24AM

14 Q. And who is copied on this e-mail? 09:24AM

15 A. Mr. Walker and Mr. Ferruzzo and a Ms. Aragon. 09:24AM

16 Q. And subject? 09:24AM

17 A. Subject is Hansen Helicopters. 09:24AM

18 MS. M. MILLER: Okay. And Ms. Miller, can you 09:24AM
19 hone in on the request there. And, Special Agent Khamvongsa, 09:25AM
20 can you tell the members of the jury is this the communication 09:25AM
21 that you were referencing when you were describing what 09:25AM
22 Exhibit 366 was responding to? 09:25AM

23 THE WITNESS: Yes. 09:25AM

24 MS. M. MILLER: So, Ms. Miller, can we go back to 09:25AM
25 Exhibit 366 now. Thank you. 09:25AM

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1 BY MS. M. MILLER: (CONTINUING)

09:25AM

2 Q. Okay. Now we're back at Exhibit 366, let's start
3 looking at the attachments.

09:25AM

09:25AM

4 MS. M. MILLER: First, Ms. Miller, can you go to
5 Page 2 of Exhibit 366?

09:25AM

09:25AM

6 BY MS. M. MILLER: (CONTINUING)

09:25AM

7 Q. And, Special Agent Khamvongsa, can you please tell
8 the members of the jury what we're seeing on Page 2?

09:25AM

09:25AM

9 A. We're seeing the corporate structure for the
10 corporations listed on the documents, similar to 829.

09:25AM

09:26AM

11 Q. Okay.

09:26AM

12 A. Exhibit 829.

09:26AM

13 MS. M. MILLER: And then could you please go to
14 Page 3, Ms. Miller. Just Page 3 for now.

09:26AM

09:26AM

15 MS. S. MILLER: Sorry.

09:26AM

16 MS. M. MILLER: No, it's okay. Perfect. And,
17 Ms. Miller, is there a way to highlight all of it except for
18 the white board on the bottom? Yup, perfect.

09:26AM

09:26AM

09:26AM

19 BY MS. M. MILLER: (CONTINUING)

09:26AM

20 Q. And could you tell the members of the jury what we're
21 seeing here that was attached to the e-mail from Mr. Crowe to
22 Mr. Ferruzzo?

09:26AM

09:26AM

09:26AM

23 A. This is the fleet of helicopters owned and controlled
24 by Hansen Helicopters.

09:26AM

09:26AM

25 Q. Okay. Now can we -- and by the way, this list of

09:26AM

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1 helicopters, does this include the helicopter that was
2 included in your evaluation for the wire fraud and the money
3 laundering?

4 A. Yes.

5 Q. Okay. Now, could we please go to Page 4 and, yes, if
6 can you highlight just the top of that. Wonderful. Could you
7 tell the members of the jury what you're looking at here?

8 A. This is proof that the helicopters are registered
9 with the FAA.

10 Q. Okay. And from Page 4 through Page 33, do we see the
11 same thing?

12 A. Yes, four U.S.-registered helicopters.

13 Q. Okay. And this is information going from Rufus at
14 Hansen Helicopters to Mr. Ferruzzo; correct?

15 A. Yes.

16 MS. M. MILLER: Okay. Now let's go through these
17 pages, Ms. Miller, if you don't mind, to Page 34.

18 BY MS. M. MILLER: (CONTINUING)

19 Q. Okay. And then what do we see here on Page 34?

20 A. This is proof that they have -- Hansen Helicopters
21 had aircraft registered in New Zealand.

22 MS. MCCONWELL: Your Honor, I object to the use
23 of the word "proof." The question is, What do we have here?
24 He's trying to make up an ultimate conclusion.

25 THE COURT: Okay. Yeah, maybe he's getting

1 conclusion. All right. Sustained. You want to rephrase
2 that?

3 BY MS. M. MILLER: (CONTINUING)

4 Q. So what is this document, sir?

5 A. This is a registration with New Zealand for
6 helicopter ZKHIA.

7 Q. And, again, let's remind the jury, all of these
8 documents are being sent to Mr. Ferruzzo by Hansen Helicopters
9 through Rufus Crowe; correct?

10 THE WITNESS: That's correct.

11 MR. MARTIN: That's a leading question, I object.
12 "Let's remind the jury" and then -- I mean --

13 THE COURT: All right. Objection will be
14 sustained. Rephrase, please, Counsel.

15 BY MS. M. MILLER: (CONTINUING)

16 Q. So when you look at that communication we saw, that
17 e-mail between Mr. Ferruzzo asking Mr. Crowe, copying Jon
18 Walker on that request, can you tell the members of the jury
19 what was Mr. Ferruzzo requesting?

20 A. Mr. Ferruzzo was requesting additional documents as
21 pertains to Hansen Helicopters, its fleets. And this was
22 provided in response to that.

23 Q. Okay. And now let's look at Page 35 and tell the
24 members of the jury what we're seeing on Page 35.

25 A. This is a New Zealand aircraft registration for ZKHMF

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1 and it identifies Jon Darrell Walker.

2 BY MS. M. MILLER: (CONTINUING)

3 Q. Okay. Now let's look at Page 36. And tell the
4 members of the jury what we're seeing on Page 36.

5 A. This is the certificate of registration with the
6 Philippine government for another helicopter with the ID
7 number of U.S. -- or the registration number RPC588.

8 Q. Okay. Now let's look at Page 37. And what are we
9 seeing here on Page 37?

10 A. 37 lists all the leases that Hansen Helicopters had.

11 Q. Okay. And across the top we can see it says Hansen
12 Helicopters Inc.,; correct?

13 A. That's correct.

14 Q. Okay. And total number of helicopters, that were
15 being represented available?

16 A. 46.

17 Q. And the current rate, I'm sorry, Ms. Miller, what was
18 the current rate per month for the helicopters as shown on
19 this document?

20 A. They were either \$37,500 or \$40,000 a month.

21 Q. And what's represented on top current rate of
22 helicopters per year?

23 A. Current rate of helicopter rental is \$480,000 per
24 annum.

25 Q. Okay. Per helicopter?

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1 A. Per helicopter.

09:30AM

2 Q. Okay. Now let's look at Page 38 oh, sorry, thank
3 you, Ms. Miller. Line 61 on Page 37, what is the yearly
4 contract revenue that is being represented in this document?

09:30AM

09:30AM

09:30AM

5 A. \$21,450,000.

09:30AM

6 Q. And is that consistent, sir, with the other
7 documentation that you've reviewed in this case?

09:30AM

09:31AM

8 A. Yes.

09:31AM

9 Q. Okay. Now let's look at Page 38, please. And can
10 you tell the members of the jury what we're seeing on Page 38?

09:31AM

09:31AM

11 A. This involves the director and shareholder
12 relationship with the 31 companies identified on the left.

09:31AM

09:31AM

13 Q. And are those what we've heard in this case as the
14 Vanuatu companies?

09:31AM

09:31AM

15 A. Yes.

09:31AM

16 Q. Okay. And then let's look at Page 43 and starting on
17 Page 43 and going all the way through Page 98. Can you tell
18 the members of the jury what's contained here?

09:31AM

09:31AM

09:31AM

19 MS. M. MILLER: Ms. Miller, can you stay on 43
20 for one second, then we'll go through. Thank you.

09:31AM

09:31AM

21 BY MS. M. MILLER: (CONTINUING)

09:31AM

22 Q. Can you tell the members of the jury what we're
23 seeing on Pages 43 through 98?

09:31AM

09:31AM

24 A. This is Wilma's Flight Services Inc., accounts
25 receivable agent summary as of June 30th, 2016, and it

09:31AM

09:31AM

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1 identifies all the tuna boats and the accounts receivable.

2 Q. Okay. And when is an account receivable?

3 A. It's essentially money still owed by the tuna boat
4 company.

5 MS. M. MILLER: Okay. And now, Ms. Miller, if
6 you can continue down to the pages. So 43, 44, and 45 is all
7 the Wilma's Flight Services account receivables?

8 A. Yes.

9 Q. Okay. And then 46 is just blank 47 blank. Let's go
10 to Page 53, I think that's the next time we see any
11 substantive information. And by the way, the blanks in these
12 markings that we see on these pages, was this exactly the way
13 we received the information or downloaded it from the
14 defendant's computers?

15 A. Yes.

16 Q. Okay. Now on Page 53, what are we seeing here?

17 A. This is financial information for Caledonian Agency
18 Inc.

19 MS. M. MILLER: Okay. Ms. Miller, can you
20 highlight the top portion, please.

21 BY MS. M. MILLER: (CONTINUING)

22 Q. What is a balance sheet?

23 A. The balance sheet identifies the assets and
24 liabilities in owner's equity within a company.

25 Q. Okay. And this is for what time period?

1 A. As of December 31, 2013.

09:33AM

2 Q. Okay. And if we continue on beyond Page 53,
3 Pages 54, that's also part of the balance sheet, sir?

09:33AM

4 THE WITNESS: Yes.

09:33AM

5 BY MS. M. MILLER: (CONTINUING)

09:33AM

6 Q. And then Page 55? And I believe Page 56 is the last
7 page of the balance sheet for Caledonian Agency; is that
8 correct?

09:33AM

09:33AM

9 A. Yes.

09:33AM

10 MS. M. MILLER: Okay, now Ms. Miller, if can you
11 go to Page 63.

09:33AM

09:33AM

12 BY MS. M. MILLER: (CONTINUING)

09:33AM

13 Q. And can you tell the members of the jury what we're
14 seeing here on Page 63?

09:33AM

09:33AM

15 A. This is Caledonian Agency Inc's., profit and loss
16 statement from January through December 2013.

09:33AM

09:33AM

17 Q. What is a profit and loss statement?

09:33AM

18 A. It identifies the revenue and -- coming into the
19 business as well as the expenses as it relates to that
20 business.

09:33AM

09:34AM

09:34AM

21 MS. M. MILLER: Okay, Ms. Miller, if you can now
22 go to Pages 71 and 72.

09:34AM

09:34AM

23 BY MS. M. MILLER: (CONTINUING)

09:34AM

24 Q. What are we seeing here on Page 71?

09:34AM

25 A. This is Caledonian Insurance Company Limited balance

09:34AM

1 sheet as of December 31st, 2015.

2 Q. And 72? Is that just a continuation?

3 A. It appears that way, yes.

4 MS. M. MILLER: Okay, now, Ms. Miller, can you go
5 to Page 79.

6 BY MS. M. MILLER: (CONTINUING)

7 Q. Can you tell the members of the jury what we're
8 seeing here?

9 A. This is Caledonian Insurance Company Limited profit
10 and loss statement for January through December 2013.

11 Q. Okay. And now could we go to Pages 87 and 89 --
12 through 89. Let's start with 87. If you could hone in on the
13 top of that would be great. And what is this that we are
14 seeing here, sir?

15 A. This is Wilma's Flight Service Inc., balance sheet as
16 of December 31st, 2013.

17 Q. Okay. And that continues on to the next page; is
18 that correct?

19 A. Yes.

20 MS. M. MILLER: Okay. Now, Ms. Miller, can you
21 please -- and actually, it goes through Page 89. And then
22 Ms. Miller, can you go to Page 97. And can you hone in on the
23 very top of that page.

24 BY MS. M. MILLER: (CONTINUING)

25 Q. And what are we seeing on Page 97?

1 A. This is Hansen Helicopters profit and loss January
2 through December 2015.

3 Q. Okay. And when you look at the income, combined
4 income for the year 2015, what are we seeing there?

5 A. \$23,167,598.96.

6 Q. Is that consistent with some of the other information
7 you've seen about how much money these companies were bringing
8 in?

9 A. Yes.

10 Q. Okay. Now could you tell the members of the jury of
11 the companies whose financial record we just reviewed,
12 Wilma's, Caledonian's and Hansen Helicopters, where are those
13 companies incorporated?

14 A. The U.S.

15 Q. Okay. And which of those companies is shown as
16 receiving all of the income from the tuna boat leases?

17 A. On this document, it's Wilma's Flight Services
18 receives 18 -- over \$18 million from the tuna boats.

19 Q. And what about this particular document, Hansen
20 Helicopters profit and loss statement?

21 A. That also comes from either lease or rent income.

22 Q. Okay. Now can you also tell the members of the jury
23 what else did you review in addition to the documentation that
24 was seized and subpoenaed that you've already discussed to
25 validate information that you presented to the jury about the

1 total amount of this fraud.

09:37AM

2 THE WITNESS: Well, I also --

09:37AM

3 MR. MARTIN: Your Honor, I object, the total
4 amount of this fraud, he can talk about his investigation.
5 That's a improper question --

09:37AM

09:37AM

6 THE COURT: All right. The Court will sustain
7 the objection and rephrase the question, Counsel.

09:37AM

09:37AM

8 MS. M. MILLER: Okay, Your Honor.

09:37AM

9 BY MS. M. MILLER: (CONTINUING)

09:37AM

10 Q. What else did you review that supported your
11 testimony and information about the total amount of the funds
12 that were received by Hansen and all these other companies for
13 leasing these tuna boats, leasing these helicopters?

09:37AM

09:37AM

09:37AM

09:37AM

14 A. I reviewed the QuickBooks records, I reviewed the
15 bank records, I reviewed also of the billing schedule which
16 all corroborates the \$20 million that I discussed earlier,
17 which equaled the 400 million covered in the timeframe of 2000
18 to present.

09:37AM

09:37AM

09:37AM

09:38AM

09:38AM

19 Q. Did you also review tax records?

09:38AM

20 A. Yes, I also reviewed tax returns as it relates to
21 Hansen Helicopters and Jon Walker.

09:38AM

09:38AM

22 Q. When you look at what we just saw in terms of income
23 reported on Hansen Helicopters profit and loss statement for
24 2015, what is the difference, if any, between what's shown
25 here and what is in the tax records of Hansen Helicopters?

09:38AM

09:38AM

09:38AM

09:38AM

1 A. Less than 20% of the money reflected here, the 23
2 million, is recorded on the Hansen Helicopters tax return,
3 corporate tax return.

4 Q. What did Jon Walker do in 2018 --

5 MS. M. MILLER: Oh, thank you, sorry. Before we
6 get off this document, can you please hone in, Ms. Miller, on
7 the upper left-hand corner of the document. Thank you.

8 BY MS. M. MILLER: (CONTINUING)

9 Q. And, Special Agent Khamvongsa, and if you can, yeah,
10 I keep saying highlight. Thank you. Can you please tell the
11 members of the jury what is shown on Line 1?

12 A. Jon D. Walker Group Companies.

13 Q. Okay. Now, what did Jon Walker do in 2018 after he
14 was indicted?

15 A. All the accounts that the government knew about were
16 closed out and businesses -- business was opened up in the
17 Philippines.

18 Q. Under what name?

19 A. Pacific.Spotters Corporation.

20 Q. And did you also review bank records for
21 Pacific.Spotters Corporation?

22 A. I did.

23 Q. And could you tell the members of the jury which bank
24 had those records?

25 A. I reviewed two bank accounts, there was a Philippine

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1 bank account with Coconut Planters Bank and then there was 09:39AM
2 also another bank account here in Guam with Community First 09:40AM
3 Guam Federal Credit Union for Limey Air Services. 09:40AM

4 Q. Okay. And has the jury seen some of these bank 09:40AM
5 records already? 09:40AM

6 A. Yes. 09:40AM

7 MS. M. MILLER: Okay. So, Your Honor, I would 09:40AM
8 like to show, Special Agent Khamvongsa, Exhibit 2939 but pages 09:40AM
9 that have not been admitted into evidence yet which are 09:40AM
10 Pages 82 and 83 of that Exhibit, 2939. 09:40AM

11 MR. MARTIN: Your Honor, if we could. 09:40AM

12 THE COURT: Yup. 09:40AM

13 MR. MARTIN: I'd ask that the jury be excused, we 09:40AM
14 had extensive, very extensive discussion on these documents. 09:40AM

15 THE COURT: Okay, hold on. Okay, let me just get 09:40AM
16 the Exhibit No. 2939. 09:40AM

17 MS. M. MILLER: Yes, Your Honor, Pages 82 and 83. 09:40AM

18 THE COURT: All right. All right. Ladies and 09:40AM
19 gentlemen, let's take a 15-minute recess. Keep an open mind 09:40AM
20 and we'll see you shortly. Please rise for the jury. 09:40AM

21 (Jury out at 9:40 a.m.) 09:40AM

22 THE COURT: All right. Please be seated. We're 09:41AM
23 outside the presence of the jury. And, yes, Agent? 09:41AM

24 THE WITNESS: I'm sorry, thank you. 09:41AM

25 THE COURT: Why don't you step out. We'll call 09:41AM

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1 you when we're ready. So let's -- page -- pull up the page,
2 let's just pull up the page that we're looking at.
3 Exhibit 2939, Page 82 and 83 that's already on. So what's the
4 offer of proof, what do you -- why do you want to bring
5 that --

6 MS. M. MILLER: Your Honor, if you recall
7 previously, we tried to bring this in, Mr. Martin asked for
8 the Court to hold off on ruling on it because he wanted to see
9 the grand jury subpoena that was issued to the bank in order
10 to receive these records. We gave him a copy of that subpoena
11 and that was all we've heard about the issue until now.

12 MR. MARTIN: Your Honor.

13 MS. M. MILLER: So --

14 THE COURT: All right. That's it?

15 MR. MARTIN: Your Honor, we -- that was not my
16 objection. I asked the grand jury subpoena and I did get the
17 grand jury subpoena.

18 THE COURT: Right.

19 MR. MARTIN: The objection was, Pacific Spotters
20 which is the whole scope of this, as you'll recall when
21 Samantha Miller was doing this, we had a huge argument
22 about -- Pacific Spotters is nowhere in this indictment. We
23 argued notice and the Court sustained the objection that
24 the -- we're here to defend what's in this indictment.

25 THE COURT: Yeah.

1 MR. MARTIN: Pacific Spotters is nowhere in 09:42AM
2 there. And that's what these two pages of this Exhibit deal 09:42AM
3 with. I believe it's wire transfers into the Limey bank 09:42AM
4 account relating to Pacific Spotters which is not in the 09:42AM
5 indictment. And we objected to it on that basis. 09:42AM

6 MS. M. MILLER: And Your Honor -- 09:43AM

7 THE COURT: Okay. Wait, wait hold on. Hold on 09:43AM
8 just a minute. 09:43AM

9 Okay. So you're saying Pacific Spotters is 09:43AM
10 nowhere in this the Second Superseding Indictment? 09:43AM

11 MR. MARTIN: Correct. 09:43AM

12 THE COURT: All right. 09:43AM

13 MR. MARTIN: And we argued, Your Honor, if the 09:43AM
14 Court will recall that we didn't get notice that they were 09:43AM
15 going to going into this Pacific Spotters information. And 09:43AM
16 unless I'm mistaken, Your Honor, and I could be but I think 09:43AM
17 you sustained our objection based upon that, we asked them to 09:43AM
18 provide us the subpoena which we got. I believe it was -- 09:43AM
19 while we were in recess, Your Honor. I had received that 09:43AM
20 subpoena now. 09:43AM

21 THE COURT: Okay, wait. Hold on. Let me just 09:43AM
22 look at my notes on this issue. Everybody give me a second 09:43AM
23 because I can't listen to two people at one time. Let me just 09:43AM
24 look at my notes here. Okay, so -- all right. This is 09:43AM
25 something we've been working on, me -- I've been working on. 09:44AM

1 So this is government's theory of relevance here requires a
2 finding that Pacific Spotters is an alter ego of Walker or
3 Hansen Helicopters.

4 And just on my preliminary review, Counsels, it's
5 not clear to the Court whether or not Pacific Spotters Corp.
6 and specific -- or Pacific Spotters Corp. are the same entity,
7 this evidence indicates that Mr. Marinho received his
8 paychecks from Pacific Spotters Corporation despite the fact
9 that he testified that he believed he was employed by
10 Defendant Hansen Helicopters or Alpha Air, which is an alleged
11 alter ego of Defendant Hansen Helicopters. And Defendant --
12 that's G-1061. Defendant's Walker, Crowe and Kapp were
13 appointed officers when Pacific Spotters Corp. was
14 incorporated, G-3003 Page 25, and although these circumstances
15 could indicate the unity of interest of alter egos, it does
16 not appear to the Court that there is sufficient evidence
17 pertinent to Pacific Spotters Corp. or -- and/or Pacific
18 Spotters Corp. for a jury to reasonably find that it is an
19 alter ego of either defendant. Should other evidence be
20 presented that pertains specifically to Pacific Spotters Corp.
21 and/or Pacific -- Pacific Spotters Corp., the government may
22 move for a finding under Rule 104(b) at the that time.

23 MS. M. MILLER: And, so Your Honor, my offer of
24 proof --

25 THE COURT: This is the time?

1 MS. M. MILLER: This is the time.

09:45AM

2 THE COURT: Okay, hold on. This is the time,
3 right? Hold on.

09:45AM

09:45AM

4 MS. M. MILLER: Yes.

09:45AM

5 THE COURT: So what -- so let me just hear now
6 how this is the time?

09:45AM

09:46AM

7 MS. M. MILLER: This is the time, Your Honor,
8 because first of all, this particular document and

09:46AM

09:46AM

9 particularly, these two pages show that the lease income

09:46AM

10 started coming into this account. Additionally, we have the

09:46AM

11 leases that the bank required Pacific Spotters to provide it

09:46AM

12 to prove that the income coming into the accounts was

09:46AM

13 legitimate because there was a concern. In addition to that,

09:46AM

14 we have proof that the helicopters that are the subject of

09:46AM

15 those leases are the exact helicopters that were being owned

09:46AM

16 and operated by Jon Walker and all of these companies that you

09:46AM

17 see here in 829 and it is all the same thing, all the same

09:46AM

18 company.

09:46AM

19 And, Your Honor, we have representations that

09:46AM

20 have been made by not only Mr. Walker, but by Mr. Crowe and

09:46AM

21 Mr. Kapp, that Pacific Spotters Corporation was in fact part

09:46AM

22 of their Hansen Helicopters affiliates. I would refer the

09:47AM

23 Court to the ECF filings of both Mr. Crowe and Mr. Kapp and if

09:47AM

24 you need the specific numbers we can get those for you, where

09:47AM

25 they actually represent to the Court repeatedly their need to

09:47AM

Direct - Khamvongsa

1 go to the Philippines because Pacific Spotters Corporation is 09:47AM
2 in fact part of their corporate entity and that they are 09:47AM
3 operating out of the Philippines. 09:47AM

4 We also have, Your Honor, which was an Exhibit 09:47AM
5 that the defense introduced, Mr. McConwell specifically, 09:47AM
6 D4-124, which was a list of helicopters that Mr. McConwell 09:47AM
7 represented to the Court and I have the transcript of the 09:47AM
8 representation, that those helicopters were being registered 09:47AM
9 in the Philippines to be used in the Philippines, in current 09:47AM
10 leases. There is no other person who is tied to Pacific 09:47AM
11 Spotters than Jon Walker and the other named co-defendants and 09:48AM
12 as I've indicated, Your Honor, we have the evidence to show 09:48AM
13 that the leases are covering the same helicopters. 09:48AM

14 Two of the leases, even have U.S.-registration 09:48AM
15 numbers on them despite the fact that Jon Walker in 2020 09:48AM
16 deregistered those helicopters with the FAA, as you just saw 09:48AM
17 that came into evidence. His letter that he sent to the FAA 09:48AM
18 from his location in Missouri, saying I am the owner and 09:48AM
19 controller of all of these helicopters I want to deregister 09:48AM
20 them. Well, guess what? They're still using all of them in 09:48AM
21 the Philippines. They just changed the name of the company to 09:48AM
22 Pacific Spotters Corporation. Plus we have the testimony of 09:48AM
23 Mr. Marinho who was paid through Pacific Spotters Corporation, 09:48AM
24 plus we introduced in 3003, the pages of the bank records 09:48AM
25 where Jon Walker actually flew to the Philippines, as did 09:49AM

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1 Rufus Crowe, as did Turner Kapp, to open up that account, to 09:49AM
2 establish that account, and to set up that account and all of 09:49AM
3 those leases were submitted to that bank to prove that that's 09:49AM
4 where the money was coming from. There is no distinction. 09:49AM

5 THE COURT: Okay. So, yes? Mr. Martin, go 09:49AM
6 ahead. 09:49AM

7 MR. MARTIN: Your Honor, if you'll recall on 09:49AM
8 June 8th, we had this very same argument, the flights where 09:49AM
9 you were asked -- you actually asked, did these flights lineup 09:49AM
10 with when these signatures were made on these bank statements, 09:49AM
11 they didn't. You asked the government to establish that for 09:49AM
12 you, they didn't. And I would point out, Your Honor, this 09:49AM
13 is -- we got an updated exhibit list from the government on 09:49AM
14 Friday. This exhibit is not on that list. And I mean I hate 09:49AM
15 to gripe about that but we've got all these exhibits we're 09:50AM
16 trying to prepare for. 09:50AM

17 I remember this just because of what happened 09:50AM
18 last time, that these exhibits, the times that they're talking 09:50AM
19 about, flying to sign these bank statements, didn't lineup, 09:50AM
20 the things didn't lineup. The Pacific Spotters is nowhere in 09:50AM
21 this indictment, isn't named. I would be more prepared had I 09:50AM
22 known had it been on their exhibit list that they were going 09:50AM
23 to try to do this again, I would be a little more prepared. 09:50AM
24 But, Your Honor, this is not relevant to the pending 09:50AM
25 indictment and they're going way beyond where we are, and I 09:50AM

Direct - Khamvongsa

1 object to it.

09:50AM

2 THE COURT: Okay. And Ms. McConwell?

09:50AM

3 MS. MCCONWELL: Well, I mean we probably spent an
4 hour and a half or two hours talking about this on June 8th
5 and the Court -- the Court did not allow -- I mean she
6 overruled -- she sustained our objection on the admission and
7 so... I would ask that we move on, that you sustained.
8 They're essentially trying to take a shot at your ruling with
9 the same witness, because we were on Agent Khamvongsa when
10 we -- they were attempting to get these two pages in.

09:50AM

09:50AM

09:50AM

09:51AM

09:51AM

09:51AM

09:51AM

09:51AM

11 THE COURT: All right. You may reply.

09:51AM

12 MS. M. MILLER: Yes, Your Honor. Two things.

09:51AM

13 THE COURT: Go ahead.

09:51AM

14 MS. M. MILLER: First of all, this idea that they
15 didn't have notice is just not correct because we actually
16 identified this exhibit as something that we wanted to use,
17 with Special Agent Khamvongsa months before he first started
18 testifying.

09:51AM

09:51AM

09:51AM

09:51AM

09:51AM

19 Second of all, all of the prior pages of this
20 exhibit were admitted by this Court except for the last two
21 pages because the objection was they just didn't look like
22 documents that the bank would produce pursuant to a grand jury
23 subpoena. I'm sure you remember that whole argument.

09:51AM

09:51AM

09:51AM

09:51AM

09:51AM

24 And, therefore, we produced the grand jury
25 subpoena to the defendants and they never said a word about it

09:51AM

09:52AM

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1 after that. They never said we still have an objection, we
2 still don't think it's legitimate. You heard the testimony of
3 Special Agent Khamvongsa at that time who said, "I received
4 these documents from the bank as is, I made no changes to them
5 or anything." Additionally, for Counsel to say they have no
6 notice is false, but I would refer the Court to several
7 additional ECF filings.

8 First of all, Your Honor, your order in ECF 1387,
9 the defendants had already moved to dismiss or strike
10 references to the shell companies that the government
11 contended were used in this fraud. And Your Honor, in that
12 order on Page 3 starting at Line 4, you stated, "The Court
13 further finds that evidence that the shell corporations were
14 passed through companies is relevant to whether the
15 transactions of the corporations can be imputed to
16 defendants." And in this situation, Jon Walker, who actually
17 flew out to the Philippines after he was indicted, opened up
18 those accounts, you just heard yesterday the testimony of
19 Special Agent Khamvongsa who said that Jon Walker removed all
20 of that money from the accounts that the government was aware
21 of, and from the corporate names that the government was aware
22 of to move it into Pacific Spotters Corporation, which we
23 introduced the deposit of those funds in Exhibit 3003.

24 Mr. Martin is saying we can't tie up the amount
25 of money that came in from the leases to the use of Pacific

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1 Spotters, absolutely we can. These two pages show the
2 hundreds of thousands of dollars of income that started going
3 into Pacific Spotters for these leases after the Defendants
4 were indicted. Again, I refer the Court to the ECF filings of
5 Mr. Crowe and Mr. Turner Kapp who signed declarations that
6 their lawyers filed with this Court saying that they had to go
7 to the Philippines because Pacific Spotters Corporation was an
8 integral part of the Hansen Helicopters operations.

9 The defendants admitted it. There is no contrary
10 evidence. There is no evidence that there was any other
11 person who controlled, operated or did anything related to
12 Pacific Spotters other than Jon Walker and these Defendants.
13 Additionally, Your Honor, you also granted the government's
14 motion to allow us to bring in evidence the Defendants were
15 still violating the law today.

16 If you look at ECF 1521, you said that, that
17 evidence is relevant because we were able to show the Court
18 that despite the fact Jon Walker deregistered all of these
19 N-numbered helicopter in 2020, his employees are still flying
20 around using N-registered helicopters. As a matter of fact,
21 we have evidence, Your Honor, that after the indictment, there
22 are two more accidents involving a U.S.-registered helicopter
23 and a helicopter that was registered in New Zealand. That
24 evidence has already come into court. And those accidents,
25 Your Honor, involved helicopters that were supposedly

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1 de-registered from those two registrations. But they were
2 operating under leases with Pacific Spotters Corporation.

3 MS. MCCONWELL: Your Honor, this exhibit, the
4 first --

5 THE COURT: Okay, which exhibit?

6 MS. MCCONWELL: The one -- this Exhibit 2139, I'm
7 going to bring us back to what -- is our issue is at hand and
8 what Ms. Miller today is trying to redo what Ms. Miller did on
9 June 8th with regard to 2939, 82 to 83. The Pages 2 -- or
10 Page 1 was admitted with Agent Prozik on 5/11 of '22, and I
11 believe that's the signature card for this account.

12 On the 31st of May, Counsel agreed... Hansen
13 Helicopters had an objection to this and so it was not
14 admitted as to Hansen Helicopters on either of those, but on
15 May 31st, there was -- the two through -- Pages 2 goes
16 through 81 were admitted because that's what the government
17 represented is all that they wanted to have admitted.

18 So then they come in on June 8th and we have at
19 least, I think we talked for probably two hours on 82 and 83,
20 and Ms. Samantha Miller did pull out all the records because
21 excerpts of that Exhibit 3003, which by the way, is an
22 additional exhibit which wasn't on their third amended list
23 but several pages were admitted but they could not match up
24 any of the air travel with the dates that were on the
25 documents. She was purporting that they had travelled and

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1 then these documents had been signed; none of that lined up or
2 matched. It appeared to be, this was some type of also a
3 summary chart. Agent Khamvongsa represented that this was
4 some special activity chart that the bank provided, that just
5 happened to keep, which is what -- which is what precipitated
6 Mr. Martin's request to see what the subpoena was that was
7 issued to the bank on what records were going to be admitted.

8 But -- and so after we went through all of that,
9 the Court still denied admission for Pages 81 -- 82 and 83 and
10 I would submit that this is -- the government's, just another
11 attempt to replough the ground we've already done with the
12 government and already sustained the objection to admission.

13 THE COURT: All right, let me just say, okay, so
14 this is the Court's ruling: The Court will say that at this
15 point, unless the prosecutor can tie a contract to Hansen
16 Helicopters or to one of the Vanuatu companies on G-829 and
17 activity in this Pacific. Spotters account by citing to me
18 specific exhibit numbers, not ECF numbers, I'll look at that.
19 We can look at that. But otherwise, the objection will be
20 sustained. So why don't you -- let me give you guys
21 15 minutes and then give -- and then pull the ECF -- I'm
22 sorry, cite me the specific exhibit numbers.

23 MS. M. MILLER: Yes, Your Honor.

24 THE COURT: And then make sure you give that to
25 defense Counsel.

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1 MS. M. MILLER: Yes, Your Honor.

09:58AM

2 THE COURT: We'll review it. I'm not saying I'm
3 going to rule in your favor, but I'm just saying that I don't
4 see the tie in yet.

09:58AM

09:58AM

09:58AM

5 MS. M. MILLER: Yes, Your Honor.

09:58AM

6 MS. MCCONWELL: And I'm also -- I just want to

09:58AM

7 make it real clear that the government did give us their

09:58AM

8 exhibits that they were going to use with Mr. Khamvongsa and

09:58AM

9 they gave us a list on August 2nd, they also gave us a list on

09:59AM

10 August 12th and their renewed effort to attempt to get these

09:59AM

11 two pages into evidence did not appear -- that Exhibit 2939

09:59AM

12 did not appear on that exhibit list that they gave us of the

09:59AM

13 exhibits that they were going to use.

09:59AM

14 MS. M. MILLER: And that is because it appeared

09:59AM

15 on the list that they were provided before Special Agent

09:59AM

16 Khamvongsa testified the first time, Your Honor. So what

09:59AM

17 we're going to do -- because this is a critical issue --

09:59AM

18 THE COURT: Well, it's a critical issue for both

09:59AM

19 of you.

09:59AM

20 MS. M. MILLER: This is a critical issue --

09:59AM

21 THE COURT: So this is my point -- Okay, we'll

09:59AM

22 come back to that objection. Noted, okay. But in the

09:59AM

23 meantime, I'll give you guys 15 minutes to come back with the

09:59AM

24 exhibit numbers and we'll look at it.

09:59AM

25 MS. M. MILLER: Yup.

09:59AM

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1 THE COURT: All right. Unless you want to go 09:59AM
2 ahead and finish this guy with other questions or? 09:59AM
3 MS. M. MILLER: No, because I literally have -- 09:59AM
4 THE COURT: This is it? 09:59AM
5 MS. M. MILLER: -- a handful of questions. So we 09:59AM
6 have to definitely resolve this issue with him. 09:59AM
7 THE COURT: All right. 15 minutes is enough 09:59AM
8 time? 09:59AM
9 MS. M. MILLER: Yes. Absolutely. 09:59AM
10 THE COURT: Okay, 15-minutes recess. Go ahead 09:59AM
11 and then get back to me. 09:59AM
12 MR. MARTIN: Okay. 10:00AM
13 THE COURT: So just make sure give them -- give 10:00AM
14 them -- Ms. Marie Miller, give the defense Counsel the exhibit 10:00AM
15 numbers that you're relying and then give me the exhibit 10:00AM
16 numbers. Give it to Carmen, then I'll review it. Thank you, 10:00AM
17 Counsels. 10:00AM
18 MS. M. MILLER: Thank you, Your Honor. 10:00AM
19 THE COURT: All right. 10:00AM
20 (Recess taken at 10:00 a.m.) 10:00AM
21 (Back on the record at 11:11 a.m.) 11:11AM
22 THE COURT: Okay. So we're back on the record. 11:11AM
23 All counsels present, Defendants are present. So let me just 11:12AM
24 say this: I think this is the best way to proceed with this. 11:12AM
25 I was scrambling with my law clerk, going through all of the 11:12AM

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1 exhibit numbers, the ECF numbers, we're going -- my chamber
2 desk trying to figure out what the argument might be, I think
3 it's more prudent instead of rushing it, because -- and having
4 everybody argue back and forth on this exhibit, this exhibit,
5 so forth, I think it's better that the prosecutor just write
6 out, it's easier to say, okay, these are the exhibit numbers,
7 this is the specific page on this exhibit number and this is
8 my argument why Pacific Spotters dot -- Pacific.Spotters,
9 Pacific Spotters, whatever.

10 MS. M. MILLER: Yes.

11 THE COURT: Is an alter ego of Hansen.

12 MS. M. MILLER: Yes.

13 THE COURT: I think it's easier that way because
14 then the defense will have an opportunity to be able to
15 respond and so they can make their objection. So if their
16 objection is, well, we didn't have notice or whatever it might
17 be or, you know, anyway, they can just make their objections,
18 and I think it will just be cleaner because --

19 MS. M. MILLER: Yes.

20 THE COURT: Believe me, we were rushing through
21 all of these -- as we were -- as we got the list , we were
22 going through them really quickly, pulling up ECF, pulling up
23 the exhibits, going -- studying it really fast and so forth.
24 Carmen would come in every 20 minutes or so or 15 minutes, you
25 know, and add stuff. So we were doing it but I just think

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1 it's just cleaner. And so I'm going to ask the prosecutors to
2 go back.

3 MS. M. MILLER: Yes, Your Honor, will do.

4 THE COURT: So there is two options, one, go back
5 and do it today and then we come back tomorrow morning. But
6 the defense -- how long is it going to take you to do this?

7 MS. M. MILLER: We'll get it done tonight.

8 THE COURT: I know but the defense Counsel need
9 to be able to review it and respond to it.

10 MS. M. MILLER: Yes. They already have the
11 exhibit numbers we intend to rely on and I will also, you
12 know, if there is anything else, obviously one thing I didn't
13 put up in the e-mail because that's the exhibit we were
14 talking about is 2939.

15 THE COURT: Right okay.

16 MS. M. MILLER: So 2939 is obviously critical
17 exhibit. All of it has gotten in except for the last two
18 pages, that's what they're objecting to. And so that's going
19 to be probably the first thing. The rest of them I already
20 e-mailed Counsel and gave them the ECF for G numbers of the
21 exhibits we intend to rely on and so we can prepare a
22 memorandum, for --

23 THE COURT: How long will that take you, so I
24 want to give them the defense Counsel sufficient opportunity
25 to review what you've written and they could respond to it,

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1 then I could look at it too before we have arguments on it 11:14AM
2 tomorrow. 11:14AM

3 MS. M. MILLER: Yes. 11:14AM

4 THE COURT: By the way, I reviewed a lot of it. 11:14AM

5 MS. M. MILLER: Yes. 11:14AM

6 THE COURT: So far, quickly, and I'm a fast 11:14AM
7 reader, so is Emily. So we're going through it, some of them 11:14AM
8 I must say I'm not sure where the theory comes from, some of 11:14AM
9 it may be, and there's plausible argument there, but some of 11:14AM
10 them I don't understand why they submitted this. Could be 11:14AM
11 either I got the wrong number, or you know, I don't know -- 11:14AM

12 MS. M. MILLER: I will. 11:14AM

13 THE COURT: -- citation. 11:14AM

14 MS. M. MILLER: It will be easier for me to pull 11:14AM
15 it together for the Court and for Counsel and to lay it all 11:14AM
16 out, because frankly, once I lay it all out, it's going to be 11:14AM
17 extremely clear and we also have admissions made by defense 11:15AM
18 Counsel in a hearing in front of Judge Manibusan. 11:15AM

19 THE COURT: Well, I've read the bail hearing. 11:15AM

20 MS. M. MILLER: Yes. 11:15AM

21 THE COURT: Just a minute. 11:15AM

22 MS. M. MILLER: Yes. 11:15AM

23 THE COURT: The Court has read the bail hearings 11:15AM
24 orders by Judge Manibusan. 11:15AM

25 MS. M. MILLER: Yes. 11:15AM

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1 THE COURT: As it relates to the defendants who 11:15AM
2 want to go to the Philippines. That's what you're talking 11:15AM
3 about? 11:15AM

4 MS. M. MILLER: Correct, correct. Where Judge 11:15AM
5 Manibusan represented in there, we can get the transcript if 11:15AM
6 we need to, that defense Counsel said that Pacific.Spotters 11:15AM
7 was in fact an affiliate of Hansen Helicopters. So we're 11:15AM
8 going to pull all of that together, because the last thing we 11:15AM
9 want obviously and I'm sure the Court is for there to be any 11:15AM
10 fraud on the Court, there is zero doubt that Pacific.Spotters, 11:15AM
11 once you see all of this pulled together, is in fact just 11:15AM
12 another alter ego of Jon Walker. When you look at the bank 11:15AM
13 records, Limey Air -- Jon Walker -- 11:15AM

14 THE COURT: Let's not get -- 11:15AM

15 MS. M. MILLER: I'll put it all in writing, we'll 11:15AM
16 get it done. 11:15AM

17 THE COURT: Put it in writing because I think 11:15AM
18 it's fair. It's only fair to the defense Counsel. It's also 11:15AM
19 fair to the Court. 11:16AM

20 MS. M. MILLER: Yup. 11:16AM

21 THE COURT: But we have -- all of us have a lot 11:16AM
22 of background on -- 11:16AM

23 MS. M. MILLER: Yes. 11:16AM

24 THE COURT: And I have reviewed the orders by the 11:16AM
25 Judge for travel. 11:16AM

Direct - Khamvongsa

1 MS. M. MILLER: Right. 11:16AM

2 THE COURT: Travel requests. 11:16AM

3 MS. M. MILLER: We'll tie it all together and 11:16AM
4 we'll do it right after court today, Your Honor, so we could 11:16AM
5 get it filed, if we end Court at 4:00 -- 11:16AM

6 THE COURT: Well, no, no, no, I guess the 11:16AM
7 question is, do you want to continue on or do you want -- 11:16AM
8 here's -- 11:16AM

9 MS. M. MILLER: Yeah, no, so this is what I 11:16AM
10 propose: Let's get Special Agent Khamvongsa back on the 11:16AM
11 witness stand -- 11:16AM

12 THE COURT: And then you're going to go to 11:16AM
13 something else? 11:16AM

14 MS. M. MILLER: I'll put a pin in main documents. 11:16AM

15 THE COURT: Okay. 11:16AM

16 MS. M. MILLER: I'm going to go to the rest -- 11:16AM
17 I'll be done with his direct examination before lunch. 11:16AM

18 THE COURT: Okay. 11:16AM

19 MS. M. MILLER: We could do his cross-examination 11:16AM
20 after lunch and we could move on with our case. If the Court 11:16AM
21 rules in favor of the government, then I would ask to be able 11:16AM
22 to bring him back before we close our case. If the Court 11:16AM
23 doesn't, we've moved on and we haven't held up the jury 11:16AM
24 anymore so -- 11:16AM

25 THE COURT: So you want the opportunity to -- 11:16AM

Direct - Khamvongsa

1 you'll send in the stuff tonight then?

11:16AM

2 MS. M. MILLER: Yes.

11:16AM

3 THE COURT: Okay. Yes?

11:16AM

4 MR. MARTIN: Your Honor, I would like them to go

11:16AM

5 do it now, send it to us so we can be prepared to argue it

11:17AM

6 tomorrow. I don't want to have to stay up all night

11:17AM

7 responding to their motion that they get to us tonight and I

11:17AM

8 don't think it's fair to us to have him come back and forth,

11:17AM

9 back and forth. I would just say we go now, give them help

11:17AM

10 however much time they need.

11:17AM

11 THE COURT: Yeah, how long -- if I let you guys

11:17AM

12 recess now?

11:17AM

13 MS. M. MILLER: We'll get it done before -- if

11:17AM

14 you let us recess now and we come back from lunch at 12:30,

11:17AM

15 we'll have it filed.

11:17AM

16 MR. MARTIN: We want an opportunity to respond.

11:17AM

17 THE COURT: You guys are fast.

11:17AM

18 MS. M. MILLER: We could do that quick.

11:17AM

19 MR. MARTIN: If they can get, then that will give

11:17AM

20 us time. I would like us to have the afternoon to finish up

11:17AM

21 and file a response and we could argue it in the morning.

11:17AM

22 THE COURT: Okay. That's a possibility. Yeah,

11:17AM

23 so there is two options, that's Option 1. Option 2 is option

11:17AM

24 that was proposed by the prosecutor, which you don't want to

11:17AM

25 have?

11:17AM

Direct - Khamvongsa

1 MR. MARTIN: No, Your Honor. I want to get 11:17AM
2 through with this witness, done. I don't want to have to 11:17AM
3 piecemeal this together. I want to get through with this 11:17AM
4 witness and this is a critical piece of evidence I'd like to 11:18AM
5 have sometime to review what they are arguing. It's very -- 11:18AM
6 it's very important to us we have all -- 11:18AM

7 THE COURT: What's my calendar tomorrow? What is 11:18AM
8 today? Tuesday. 11:18AM

9 MS. M. MILLER: Do I have anything on Wednesday 11:18AM
10 morning? 11:18AM

11 (Discussion with clerk.) 11:18AM

12 THE COURT: Thursday I have something, but don't 11:18AM
13 have compassionate release stuff. So why don't we do this, 11:18AM
14 Counsels, I think that's fair, I think, you know, because 11:18AM
15 there is a lot of exhibits that were just thrown to me and my 11:18AM
16 clerk. So I think it's fair and just be very -- I don't need 11:18AM
17 to tell you that but just make sure that you're focused on 11:18AM
18 what is really truly relevant to your justification. 11:18AM

19 MS. M. MILLER: Yes, Your Honor. 11:18AM

20 THE COURT: Because that -- instead -- because I 11:18AM
21 think there was like some stuff I read and I was like, I 11:18AM
22 wonder what -- I don't really get this but maybe I don't know 11:18AM
23 your theory on this. 11:18AM

24 MS. M. MILLER: We'll tie it altogether, Your 11:18AM
25 Honor. So we will have this done -- we'll get it -- are we 11:18AM

Direct - Khamvongsa

1 going to just break for the rest of the day?

11:18AM

2 THE COURT: I'll let jurors eat their lunch.

11:19AM

3 They haven't eaten their lunch yet but they're going to eat
4 lunch in a few minutes.

11:19AM

11:19AM

5 MS. M. MILLER: And so we will get it filed and
6 served on the defendants by, let's say 1:00 p.m. today,
7 assuming we do that, when can we expect their response so that
8 we can make this argument tomorrow morning at 7:00 a.m. so we
9 can continue on with this?

11:19AM

11:19AM

11:19AM

11:19AM

11:19AM

10 THE COURT: Counsel, maybe -- if they get it to
11 you by 1:00, which is now two hours from now, less than two
12 hours.

11:19AM

11:19AM

11:19AM

13 MS. M. MILLER: I say give them two hours to
14 respond. There is all of them. There is only us.

11:19AM

11:19AM

15 MR. MARTIN: There is only us.

11:19AM

16 THE COURT: Us, you got a strong us here.

11:19AM

17 MS. M. MILLER: We do got a strong us.

11:19AM

18 MR. MARTIN: Judge, if they can get it to us at
19 1:00, can we have until 4:00?

11:19AM

11:19AM

20 MS. M. MILLER: That's fine.

11:19AM

21 THE COURT: That's fine.

11:19AM

22 MS. M. MILLER: And then we'll see you tomorrow
23 at 7:00?

11:19AM

11:19AM

24 THE COURT: Yeah, 7:00.

11:19AM

25 MS. M. MILLER: 7:00, I love 7:00 hearing.

11:19AM

Direct - Khamvongsa

1 MR. MARTIN: How about 7:30, Judge?

11:19AM

2 MS. M. MILLER: The way this group goes, I think
3 we need to start at 7:00 so we get this jury in at 8:15 and we
4 go. Because Special Agent Khamvongsa, seriously, whether this
5 is in or out, his direct is going to be over and we could then
6 move on to Mr. Guzzetti and we could still get this done this
7 week, which is, obviously, the government's goal.

11:19AM

11:19AM

11:20AM

11:20AM

11:20AM

11:20AM

8 THE COURT: Tomorrow is Wednesday. Hold on. I'm
9 looking at my docket here. I don't have anything on my docket
10 so I'm just trying to figure out if I have any other --
11 sometimes I have meetings. I have to get early in the
12 morning. All right, 7:30. I'll do it. I'll just do it 7:30.
13 I was going to cut the baby in half and do it 7:15 but we'll
14 do it 7:30.

11:20AM

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11:20AM

11:20AM

11:20AM

11:20AM

15 MS. M. MILLER: Okay.

11:20AM

16 THE COURT: And that will give me staff too
17 enough time -- yeah, are we going to be okay at 7:30 with the
18 marshals letting us in? We're good. Let me find out because
19 marshals -- because that constitutes overtime. Hold on. And
20 we're on continuing resolution with DC. You know how they
21 are, kind of slow on our budget.

11:20AM

11:20AM

11:20AM

11:20AM

11:20AM

11:20AM

22 (Pause.)

11:21AM

23 THE COURT: Is 7:30 okay? And if not, then we'll
24 do it at 8:00. Can you -- he's going to verify right now.
25 But okay, so prosecution will turn theirs in at -- did you say

11:21AM

11:21AM

11:21AM

Direct - Khamvongsa

1 1:00?

11:21AM

2 MS. M. MILLER: We'll get it filed by 1:00. Can
3 we work in here or do we need to --

11:21AM

11:21AM

4 THE COURT: No, you can work in here, that's
5 fine. You want to work in here, that's fine. And defense
6 could turn theirs in at 4:00, then we'll look at it and then
7 we'll meet tomorrow morning to decide. So depending on what
8 they say. Please, Counsels, just be very, you know, specific
9 and articulate about your justification and your objections.

11:21AM

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11:21AM

10 MS. M. MILLER: Yes, we will put in to our motion
11 the specific excerpts from the documents, page number, line
12 numbers, if there are line numbers --

11:21AM

11:21AM

11:22AM

13 THE COURT: Well if, you add that on, so I don't
14 have to look for it, that's even better.

11:22AM

11:22AM

15 MS. M. MILLER: We're going to do that, Your
16 Honor, so you do not have to look through a bunch of exhibits,
17 we'll just attach and file have pictures of those excerpts
18 with the citations.

11:22AM

11:22AM

11:22AM

11:22AM

19 THE COURT: That's a good idea.

11:22AM

20 MS. MCCONWELL: And if there is any confidential
21 information on that, like we've discussed before with bank
22 records or employees, we would like that redacted.

11:22AM

11:22AM

11:22AM

23 THE COURT: All right. That's fine. I'm pretty
24 sure prosecution will take care of that, Ms. Miller?

11:22AM

11:22AM

25 MS. M. MILLER: Yes, Your Honor.

11:22AM

Direct - Khamvongsa

1 THE COURT: All right. And then let's see what 11:22AM
2 the marshals say. They're still checking their budget? 11:22AM
3 They're checking their budget? I know. Because their 11:22AM
4 director is coming out pretty soon. He might -- he's coming 11:22AM
5 out in September, might get in trouble if we don't do this 11:22AM
6 right. 7:30, see you guys at 7:30 a.m. 11:22AM

7 MS. M. MILLER: Thank you, Your Honor. 11:22AM

8 THE COURT: Thank you. Take care. 11:22AM

9 And then, Carmen, just let the jurors know we're 11:23AM
10 going to come back tomorrow morning, come back at... well, we 11:23AM
11 start at 8:15. I'm going to tell the jurors to come back at 11:23AM
12 9:00. 11:23AM

13 MS. M. MILLER: Yes, Your Honor. 11:23AM

14 THE COURT: Because I do not think we'll be done 11:23AM
15 by 8:15. 11:23AM

16 MR. MARTIN: I agree. 11:23AM

17 MS. M. MILLER: Yes, Your Honor. 11:23AM

18 THE COURT: So I'll tell them 9:00, okay. To be 11:23AM
19 here, start at 9:00. So Carmen will let them know. Okay. 11:23AM

20 (Proceedings concluded at 11:23 a.m.) 11:23AM

21 * * * 11:23AM

1 August 17, 2022; 7:32 a.m.; Hagatna, Guam

11:23AM

2 * * *

11:23AM

3
4 THE CLERK: Morning. This is Criminal Case No.
5 18-00010, *United States of America versus John D. Walker and*
6 *Hansen Helicopters*; Motion Hearing.

07:32AM

07:32AM

07:32AM

07:32AM

7 Counsel, please state your appearances, beginning
8 with the government.

07:32AM

07:32AM

9 MR. LEON GUERRERO: *Buenas and hafa adai*, Your
10 Honor. Stephen Leon Guerrero on behalf of United States.
11 Also present are Special Assistant U.S. Attorneys Marie Miller
12 and Samantha Miller.

07:32AM

07:32AM

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07:32AM

13 THE COURT: Oh, okay. *Hafa adai. Hafa adai.*

07:32AM

14 MS. S. MILLER: *Hafa adai*, Your Honor.

07:32AM

15 THE COURT: Was I calling you Stephanie Miller
16 yesterday, right?

07:32AM

07:32AM

17 MS. S. MILLER: I don't remember.

07:32AM

18 THE COURT: I think I did. Sorry about that. I
19 just realized that.

07:32AM

07:32AM

20 MS. S. MILLER: I get Amanda a lot too.

07:32AM

21 THE COURT: Sorry. I just realized that. I
22 apologize.

07:32AM

07:32AM

23 MR. MARTIN: Morning, Your Honor. Mack Martin
24 also present with my client, Jon Walker.

07:32AM

07:32AM

25 THE COURT: Good morning, Mr. Martin and

07:33AM

Direct - Khamvongsa

1 Mr. Walker.

07:33AM

2 It's not turned on.

07:33AM

3 MR. MCCONWELL: Edward McConwell on behalf of
4 Hansen Helicopters, Laura McConwell and Edward Han.

07:33AM

5 THE COURT: Okay. Good morning, Mr. Han,
6 Mr. McConwell, Ms. McConwell. We'll make sure it's on. All
7 right. So the Court is in receipt of the prosecutor's offer
8 -- Plaintiff's -- Pacific Spotters is affiliated with the
9 Defendants. The Court is also in receipt of Mr. Walker and
10 Hansen Helicopters' response and opposition to this motion
11 regarding specific exhibits, G-2939-82-83, and the Court also
12 in receipt of the United States' reply to the Defendants'
13 response. So -- and that's it, I don't have any other files,
14 right?

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07:33AM

15 MS. M. MILLER: That's it, Your Honor. Yeah.
16 There are two issues that have come to our attention and --

07:33AM

07:33AM

17 THE COURT: Outside of this?

07:33AM

18 MS. M. MILLER: Outside of this in the last --
19 well, one has to do with this, and one tangentially has to do
20 with this. There was apparently another accident yesterday of
21 the helicopter that the Defendants are illegally operating,
22 RPC 6911, which used to be N1DQ. As you heard the testimony
23 of Mr. Bustos, he flew N1DQ, and Mr. Walker personally went
24 out to the boat to fix it when there was a problem with it.
25 It was in an accident yesterday in the Philippines, or outside

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Direct - Khamvongsa

1 of the Philippines, and the pilot died. And two additional
2 people were injured. In addition to that and, by the way,
3 that is a helicopter that is registered under Pacific
4 Spotters.

5 In addition to that, Your Honor, it appears that
6 Mr. Walker traveled to the Philippines without the approval of
7 the probation office. We verified that yesterday once we
8 carefully reviewed the documentation showing that Mr. Walker
9 was actually in the Philippines in December of 2018, after he
10 had been indicted and after the Court had imposed restrictions
11 on his travel. And it appears that he never filed any motion
12 with the Court to allow him to travel, yet we have his
13 passport photographed in the Philippines and we have a
14 notarized signature of Mr. Walker in the Philippines when he
15 flew out there to open up a new bank account for
16 Pacific.Spotters Corporation.

17 That obviously is of great concern to the United
18 States. We know that Mr. Walker has a jet. We know that
19 Mr. Walker had the capacity to fly from here to the
20 Philippines on his own jet. And we're now very concerned
21 about him fleeing in anticipation of a negative jury verdict.
22 So we will be filing a motion to ask the Court to consider
23 remanding Mr. Walker until the end of this trial because we
24 are very concerned about that. So I wanted to bring those two
25 things to the Court's attention before we consider -- proceed

Direct - Khamvongsa

1 with this proffer.

07:36AM

2 THE COURT: All right. Yes, Mr. Martin?

07:36AM

3 MR. MARTIN: First, Your Honor.

07:36AM

4 THE COURT: Yup.

07:36AM

5 MR. MARTIN: Relating to an accident, which we
6 have no clue what they're talking about since they provided us
7 no information on it, we don't know what caused the accident
8 since they provided us no reports. If it was pilot error, if
9 it even happened. I don't know the purpose that the
10 government is bringing this to anyone's attention other than
11 to attempt to prejudice our case in the eyes of the Court.
12 It's totally inappropriate to bring something up without any
13 evidence whatsoever to support it, and I am offended that the
14 government would do that at this point in the trial.

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15 Secondly, if Ms. Miller had been involved in this
16 case from the beginning, she would know that until the Second
17 Superseding Indictment, which was in January of 2022,
18 Mr. Walker had -- 2021, Mr. Walker had absolutely no
19 restrictions on his travel. It was only at the Second
20 Superseding Indictment at their insistence that he be detained
21 that the magistrate judge put restrictions on him that
22 required him to contact his probation officer for any travel.
23 He has not traveled improperly at all. And the allegations by
24 the government are unfounded, and that, again, offends me
25 because the order allowing him release did not require

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Direct - Khamvongsa

1 anything for travel like that. So I -- I don't know why we're 07:37AM
2 going into things that, number one, are designed to prejudice 07:37AM
3 my client without evidence to support it, and number two, are 07:37AM
4 designed to prejudice our case in your eyes, Your Honor. It 07:37AM
5 offends me, and it's continued throughout this case. 07:37AM

6 MR. LEON GUERRERO: Your Honor, if I may? 07:37AM

7 THE COURT: Okay. Hold on. Hold on. Does the 07:37AM
8 other Counsels -- go ahead. 07:37AM

9 MR. MARTIN: That -- that's it, Your Honor. I 07:38AM
10 mean, I don't like -- if they've got some evidence, they need 07:38AM
11 to provide it to us in this case. 07:38AM

12 THE COURT: Okay. Ms. McConwell, did you want to 07:38AM
13 say something? 07:38AM

14 MS. MCCONWELL: Not on these two issues, Your 07:38AM
15 Honor. 07:38AM

16 THE COURT: Oh, okay. All right. Yes, Mr. Leon 07:38AM
17 Guerrero, go ahead. 07:38AM

18 MR. LEON GUERRERO: Yes, Your Honor. With 07:38AM
19 respect to the travel restrictions, I know that the government 07:38AM
20 had opposed the travel by the Defendants. Travel restrictions 07:38AM
21 were in place for foreign travel, not domestic travel. So the 07:38AM
22 Defendants were able to travel domestically within the United 07:38AM
23 States, but any foreign travel, there had to be a motion so we 07:38AM
24 had an opportunity to oppose it. So I want to -- 07:38AM

25 THE COURT: But, you know, I don't really want to 07:38AM

1 get into the merits of it, file your motion.

07:38AM

2 Don't worry, Mr. Martin, I'm not prejudiced by
3 it. I mean, I don't see anything before the Court. If there
4 is an allegation, I'll certainly review the motion, and then
5 from there, I'll decide. But the parties need to, you know,
6 have their ducks in order. If there really was a violation
7 they'll file it, and I'm sure the U.S. probation and pretrial
8 officer will be knowledgeable of this issue.

07:38AM

07:38AM

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07:39AM

9 MS. M. MILLER: We will be doing that.

07:39AM

10 THE COURT: As I recall, I think it was Judge
11 Manibusan who did most of the bail detention hearing.

07:39AM

07:39AM

12 MS. M. MILLER: Right. And the other Defendants
13 actually did seek permission from Judge Manibusan to travel in
14 2018, both Mr. Kapp and Mr. Crowe. As a matter of fact, some
15 of the proffer evidence that we submitted to your Court, Your
16 Honor, yesterday included the allegations made by Mr. Kapp
17 that were asserted by Mr. McConwell here about traveling to
18 the Philippines in order to work with Pacific.Spotters on
19 behalf of Hansen Helicopters.

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20 So we will be filing that motion. The reason why
21 I brought it up is I want Your Honor to be aware of it because
22 we just confirmed with probation yesterday that that was a
23 violation, number one. Number two, we just got notification
24 this morning about this accident. It was in the news, and it
25 was flagged by the FAA. We will be sending that information

07:39AM

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07:40AM

Direct - Khamvongsa

1 to the Defendants. We're bringing it to this Court's
2 attention because the seriousness of the fact that the
3 Defendant has been permitted to continue to fly these
4 helicopters, that we heard testimony are not airworthy, and to
5 continue his fraudulent operation in the Philippines with
6 these identical helicopters is just an unbelievable fraud on
7 the United States, on the Court, it's our duty.

8 THE COURT: Well, let me ask you since I did not
9 do the bail detention hearing, as I recall. Was there a
10 request --

11 MS. M. MILLER: There was.

12 THE COURT: -- was there a request in terms of --

13 MS. M. MILLER: Of remanding --

14 THE COURT: Not -- okay, I don't know, remand is
15 one thing. Another thing might be --

16 MS. M. MILLER: Yes. Yes.

17 THE COURT: -- continuation, I'm sorry,
18 continuation of certain --

19 MS. M. MILLER: Yes. There was a motion for
20 protective order filed both under Rule 16, and a motion to
21 actually allow the government to seize the helicopters that
22 were being illegally operated under 17. What happened was,
23 Your Honor, and this is something we just don't know why.
24 Judge Manibusan, as you know, retired. Judge Bordallo took
25 over. Judge Bordallo heard those motions. Judge Bordallo

Direct - Khamvongsa

1 denied those motions. And then Judge Bordallo recused himself 07:41AM
2 from hearing any other motions that were filed in the case 07:41AM
3 saying that he had a conflict of interest, and we have no idea 07:41AM
4 what that conflict is. We have no idea why. And so that has 07:41AM
5 just left kind of a question mark for us in this case. But I 07:41AM
6 do want the record to reflect that the government has made 07:41AM
7 multiple, multiple attempts to try to cease the operations to 07:41AM
8 avoid exactly what just happened yesterday. Another pilot 07:41AM
9 died. 07:41AM

10 THE COURT: Okay. Well -- 07:41AM

11 MR. MARTIN: May I respond? May I respond, Your 07:41AM
12 Honor. 07:42AM

13 THE COURT: Well, go ahead, but let me say before 07:42AM
14 you do that, since I wasn't the judge that handled the bail 07:42AM
15 detention hearing, I don't have the history -- I mean, I've 07:42AM
16 read some of it, but not all of it. But in terms of what may 07:42AM
17 have happened, but -- so -- I can't really comment on what's 07:42AM
18 before a judge, I mean, what had came before Judge Bordallo or 07:42AM
19 Judge Manibusan, I don't know. And putting that aside, we're 07:42AM
20 here in a new day, file your motion. We'll just proceed 07:42AM
21 forward. Yes? 07:42AM

22 MR. MARTIN: Her comments that she just made, 07:42AM
23 Your Honor, refer to them trying to cease helicopters, had 07:42AM
24 nothing to do with the bond hearing. Both those motions were 07:42AM
25 denied by the Court. 07:42AM

1 THE COURT: All right. I will submit to the 07:42AM
2 Court that my client has not violated any court order. He has 07:42AM
3 not been to the Philippines in violation of his conditions of 07:42AM
4 bond. If they will give us a date, time, and place, we will 07:42AM
5 verify that. But to come in here and try to distract this 07:42AM
6 trial, which it happens every day, we get something new coming 07:43AM
7 in. I -- you know, I thought we were going to try to finish 07:43AM
8 this case, but apparently we're not going to until Christmas. 07:43AM

9 Yeah, we're going to finish it. Don't worry 07:43AM
10 about it. 07:43AM

11 MS. M. MILLER: The accident is something new. 07:43AM
12 The death is something new. 07:43AM

13 THE COURT: Okay. Well, but that's not -- so the 07:43AM
14 accident is something new. 07:43AM

15 MS. M. MILLER: The death is something new. 07:43AM

16 THE COURT: But the issue of what's relevant is 07:43AM
17 not before me. So you're going to have to bring it -- you 07:43AM
18 have to bring it formally. 07:43AM

19 MS. M. MILLER: We're going to file that. 07:43AM

20 THE COURT: That's right. 07:43AM

21 MS. M. MILLER: I want Your Honor to know because 07:43AM
22 I, you know -- 07:43AM

23 THE COURT: Yeah, give me heads up. I got it. I 07:43AM
24 appreciate that. 07:43AM

25 MS. M. MILLER: Yes. 07:43AM

Direct - Khamvongsa

1 THE COURT: But I would say that if the defense 07:43AM
2 -- if Mr. Martin, he seems to be quite adamant that you're 07:43AM
3 wrong about the dates. Whether -- whether that's true or not 07:43AM
4 doesn't matter. What matters is maybe you should meet with 07:43AM
5 him after the next break to confirm that because if he has a 07:43AM
6 -- an explanation or you guys have a misunderstanding with 07:43AM
7 U.S. Probation and Pretrial, then that particular motion is 07:43AM
8 for nothing. 07:43AM

9 MS. M. MILLER: Absolutely. We would love to do 07:43AM
10 that. We would absolutely like to meet Mr. Martin, show him, 07:43AM
11 we will show him the photograph of the passport that was taken 07:44AM
12 in December of 2018, and we'd love to hear the explanation. 07:44AM
13 That would be great. 07:44AM

14 THE COURT: I mean, they don't have to respond, 07:44AM
15 but you could at least give them the dates. 07:44AM

16 MS. M. MILLER: Absolutely. 100 percent. 07:44AM

17 THE COURT: And perhaps Mr. Martin would want to 07:44AM
18 talk -- walk in with his client to speak to the probation 07:44AM
19 officer who's his -- or pretrial officer, I should say -- 07:44AM
20 pretrial officer, to figure out what's going on. Yes? 07:44AM

21 MR. MARTIN: Your Honor, he reports to his 07:44AM
22 officer every week. 07:44AM

23 THE COURT: Okay. 07:44AM

24 MR. MARTIN: If he was out of the country, they 07:44AM
25 would know it. 07:44AM

1 THE COURT: Okay. Well, usually, what's 07:44AM
2 interesting too though is if there is a violation -- I will 07:44AM
3 say this, if there is a violation, usually my pretrial 07:44AM
4 officers bring in a violation, they let us know. I'm not sure 07:44AM
5 -- 07:44AM

6 MS. M. MILLER: They were unaware because there 07:44AM
7 was no record of the travel. 07:44AM

8 THE COURT: Okay. I see. All right. 07:44AM

9 Yes, Ms. McConwell? 07:44AM

10 MS. MCCONWELL: Before we start our hearing on 07:44AM
11 the motion that was filed by the government -- before we start 07:44AM
12 our hearing, yesterday if you'll recall, Your Honor, what 07:45AM
13 paused our trial and paused our conversation was the 07:45AM
14 government's attempt to admit its Exhibit 2939-82, 83. And 07:45AM
15 your request was for them to provide you the offer that 07:45AM
16 supports the admission of those two pages -- 07:45AM

17 THE COURT: Correct. 07:45AM

18 MS. MCCONWELL: -- out of that document. What 07:45AM
19 they filed yesterday was completely something different than 07:45AM
20 what we had discussed in Court yesterday. 07:45AM

21 MS. M. MILLER: What? 07:45AM

22 MS. MCCONWELL: And so -- yeah, it is. 07:45AM

23 THE COURT: All right. Well, then -- 07:45AM

24 MS. MCCONWELL: And quite frankly, Your Honor, 07:45AM
25 the frustration from the point of Hansen Helicopters in 07:45AM

Direct - Khamvongsa

1 representing our client is it's a constant, "this is the 07:45AM
2 issue," but then we're over here, and then we take sharp left 07:45AM
3 turns, and there has just been this continual drip, drip, drip 07:45AM
4 throughout the trial that one argument is made and then when 07:45AM
5 something else is filed, it takes us off in a completely 07:45AM
6 different direction. 07:45AM

7 We're just trying to get this particular case 07:45AM
8 tried, and it's constantly being changed by the United States 07:46AM
9 and, yeah, and... I'm extremely frustrated by the adjectives 07:46AM
10 that the prosecution continues to use because they're being 07:46AM
11 the basically the prosecution, the jury and executioner in the 07:46AM
12 form of the questions that are used. Pardon me, Ms. Miller, 07:46AM
13 calling it the form, in her questions, calling them the guilt, 07:46AM
14 the fraud, the illegality, all of those are highly, highly 07:46AM
15 inflammatory and the overall cumulative effect, since this 07:46AM
16 trial began in March, I don't know how the jury ever avoids it 07:46AM
17 and then now, they're trying to reform, apparently with the 07:46AM
18 motion that was filed yesterday, the indictment. And so -- 07:46AM

19 THE COURT: Well, if that's the case, then we'll 07:46AM
20 address that. But let's get to the motion, you guys. 07:46AM

21 MS. M. MILLER: Yes, Your Honor. 07:46AM

22 THE COURT: Let's get to it because the jury is 07:46AM
23 waiting. 07:46AM

24 MS. M. MILLER: Yes, Your Honor. 07:46AM

25 THE COURT: And I will address any further 07:46AM

1 distractions. I do think that we should focus, but I do
2 appreciate the fact at least now you guys know, they may file
3 a motion for remand, revocation of detention.

4 MS. M. MILLER: Absolutely.

5 THE COURT: Revocation, but that -- you know, at
6 least you know. Be prepared.

7 MS. M. MILLER: Right. All right, Your Honor, so
8 --

9 THE COURT: Whether or not it's true or not, I
10 don't know. But let's go. Proceed.

11 MS. M. MILLER: So regardless of what Ms.
12 McConwell said, which is absolutely incorrect, our entire
13 offer of proof yesterday was geared towards why the two pages
14 that were at the very end of the bank records that were
15 originally admitted several months ago should in fact come in.
16 And the Court yesterday said that you did not see the
17 connection between Pacific Spotters and Limey Air and the
18 Defendants in order to allow that in. So our offer of proof
19 was geared directly towards that, and we started our offer of
20 proof with the exhibit itself, 2939, pages 82 and 83. And,
21 Your Honor, when you look at 2939, pages 82 and 83 and, Ms.
22 Miller, is that something could you bring up on Trial Director
23 for the Court to see?

24 MS. S. MILLER: Yup.

25 MS. M. MILLER: If we could show you, Your Honor.

Direct - Khamvongsa

1 On those two pages, what we see is the Limey Air bank account, 07:48AM
2 and we see funds coming in to the Limey Air bank account from 07:48AM
3 Pacific Spotters Corporation. When you look at those last two 07:48AM
4 pages, that's a summary of wire transfers from Pacific 07:48AM
5 Spotters to Limey Air starting at the end of 2018 and going 07:48AM
6 through 2019. 07:48AM

7 Do you have the number 2939? 07:48AM

8 And we're going to pull up those two pages. And, 07:48AM
9 Ms. Miller, could you just focus in on the first page and blow 07:49AM
10 up that part there. 07:49AM

11 So, Your Honor, this was a record we received 07:49AM
12 from the bank, and it was the bank account for Limey Air 07:49AM
13 Service Inc., and as Your Honor knows and why the rest of the 07:49AM
14 record was previously admitted is Limey Air Service Inc. is, 07:49AM
15 according to the Defendant's own submission to this Court, one 07:49AM
16 of the companies that is being used by Jon Walker and Hansen 07:49AM
17 Helicopters. It's contained on this list. Limey Air Services 07:49AM
18 Inc., which is why we got the subpoena and we got those bank 07:49AM
19 records. When you look at pages 82 and 83, you see that this 07:49AM
20 is a wire transfer schedule showing that -- and if you look at 07:50AM
21 the dates received, the dates it starts on August 31st of 07:50AM
22 2018, and what is very important about this is that this is 07:50AM
23 after the first indictment was filed against Jon Walker and 07:50AM
24 Hansen Helicopters. So we have August of 2018, wire transfers 07:50AM
25 start coming in to Limey Air, one of the Defendants admitted 07:50AM

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1 alter ego shell companies from -- and this is what's really
2 important, Your Honor -- the originator on this document is
3 Pacific Spotters Corporation. And you see that on pages 82
4 and 83.

5 Now the rest of the exhibits that were already
6 entered into evidence, 2939, show the creation of Limey Air
7 and show the creation of the bank account. Now, if we go to
8 the rest of the exhibits for 2939, which the government cited
9 in its proffer and we actually put in the excerpted pages, we
10 see that Limey Air was created in 1999. This was after Jon
11 Walker purchased Hansen Helicopters from Vern Hansen. And he
12 created it in 1999, and we also submitted documentation
13 showing that when it was created, Hansen Helicopters, the
14 company, that Jon Walker owned 99.9% of, owned 99.9% of Limey
15 Air.

16 We produced to Your Honor 2939-39, which was an
17 excerpt from the minutes creating Limey Air, and we also
18 showed Your Honor the signature of the Defendant, Jon Walker,
19 in creating that company on May 3rd of 1999. Exhibit 2939-49
20 shows that Hansen Helicopters is the 99.9% owner of Limey Air,
21 and Jon Walker is also listed as an owner, and he also, again,
22 signs off on that document that we produced to the Court, and
23 that has been entered into evidence in this case.

24 Beginning in 2015, we see a reference in these
25 records to Wilma's Flight Services. Wilma's Flight Services,

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1 as you know, Your Honor, based on the Defendant's own 07:53AM
2 admission and submission and the evidence admitted in this 07:53AM
3 court, is another one of the companies that is used by the 07:53AM
4 Defendants as a shell alter ego of Hansen and Jon. The reason 07:53AM
5 why it's important to know that Wilma's Flight Services makes 07:53AM
6 it into these records is that as you heard from the testimony 07:53AM
7 of special agent Khamvongsa, Wilma's Flight Services is the 07:53AM
8 company that manages all of the schedules and billings for the 07:53AM
9 tuna boat leases. And we produce to Your Honor 2939-72 which 07:53AM
10 references Wilma's Flight Services as an affiliate and minutes 07:53AM
11 that were signed again by Jon D. Walker, the Defendant, who is 07:54AM
12 identifying that the financial statements and information that 07:54AM
13 apply to Wilma's support Limey Air's income into the bank 07:54AM
14 accounts. 07:54AM

15 Less than one month after the indictment, Limey 07:54AM
16 Air, with Mr. Walker as the chairman and now the 99.9% owner 07:54AM
17 of Limey Air, opens up a bank account for Limey Air, and 07:54AM
18 that's 2939-73. So now we have 1990 -- sorry, 2018 and 07:54AM
19 Mr. Walker is the 99.9% owner of Limey Air, and he opens up a 07:54AM
20 bank account. You see the minutes there that we produced 07:54AM
21 showing that he said we wanted to open up the bank account. 07:55AM
22 This is right after he's indicted. This coincides with 07:55AM
23 Special Agent Khamvongsa's testimony -- 07:55AM

24 THE COURT: You mean the second indictment? 07:55AM

25 MS. M. MILLER: Yes, Your Honor. This is the 07:55AM

Direct - Khamvongsa

1 first indictment. This is right after the initial indictment. 07:55AM
2 And this also aligns with Special Agent Khamvongsa's testimony 07:55AM
3 that Jon Walker was closing and removing funds from the 07:55AM
4 accounts that the government was aware of and creating 07:55AM
5 accounts that the money could be moved into. 07:55AM

6 We then show Your Honor 2939, that's a typo in 07:55AM
7 our proffer, dash 76, Jon Walker notarizes an affidavit 07:55AM
8 confirming he is now the 99.9% owner of Limey Air Services 07:55AM
9 Inc., and interestingly in this -- it's dated July 25th, 2018 07:55AM
10 -- he indicates that Limey Air services, a U.S. corporation, 07:55AM
11 and he uses the address of Hansen Helicopters for Limey Air. 07:56AM
12 So now we have Jon Walker, 2018, 99.9% owner of Limey Air, and 07:56AM
13 by the way, Your Honor, the bank records indicate that Limey 07:56AM
14 Air is in the business of leasing helicopters to tuna boats 07:56AM
15 for income. And we know that Limey Air is associated with 07:56AM
16 Wilma's, which as the Court saw, was the company that was 07:56AM
17 being used to schedule all of the billings, handle all of the 07:56AM
18 accounts receivable for all of the helicopters subject to this 07:56AM
19 indictment. So Jon Walker opens up this bank account. And we 07:56AM
20 have the minutes, and we have the indication that he says, 07:57AM
21 we're opening up this account, I'm the 99% -- 99.9% owner of 07:57AM
22 the account, and here it is, 2939-81, Limey Air Services Inc., 07:57AM
23 we produced this in our proffer, incorporated in Guam, which 07:57AM
24 by the way Your Honor, is inconsistent with what the 07:57AM
25 Defendants have represented to the Court and to the 07:57AM

Direct - Khamvongsa

1 government. And Jon Walker is the president, director, 99.9%
2 owner, and what happens? The bank account is opened and one
3 month later, funds start coming in from Pacific Spotters
4 Corporation into the Limey Air bank account. We're talking
5 about \$5 million, Your Honor, from August of 2018
6 through 2019, from Pacific Spotters.

7 Now, the question became, what is the connection
8 between Pacific Spotters and Jon Walker? Well, the government
9 thinks that's very clear, but the government also refers the
10 Court to documents regarding that relationship. If Your Honor
11 looks at the documents that we produced previously in this
12 case, Exhibit 3003, one of the first things that you're going
13 to see that we produced is that the helicopters that are being
14 used are all insured by another one of the Defendant's shell
15 companies, Caledonian Insurance. And that's why we produced
16 it to you as well, Your Honor, to show the connection.
17 Caledonian Insurance Company, which is 99.9% owned by Hansen
18 Northern, which is 99.9% owned by Jon Walker. Jan's Flight
19 Service, which is listed as one of the Vanuatu shell companies
20 used by Jon Walker, is listed as the owner of these
21 helicopters. Which, by the way, this is part of the fraud,
22 that is not the registered owner of these helicopters
23 according to what Jon Walker filed with the FAA. So that's
24 the first document we see the connection between Jan's and we
25 see the connection with the... Pacific Spotters Corporation in

Direct - Khamvongsa

1 3003-18 and 19.

07:59AM

2 And what is the connection here? We attached a
3 board resolution that shows that Jon Walker sold aircraft from
4 Jan's Helicopters, so Jan's Helicopters supposedly owned these
5 aircraft. This is another connection that's very important
6 for the Court to know. This list of the helicopters, under
7 Jan's Helicopters, that Jon Walker then sells to Pacific
8 Spotters, is the same list of helicopters that were issued a
9 cease-and-desist order and a delisting and a deregistration
10 order from the Philippine authorities because of Jon Walker's
11 failure to comply with their rules and their regulations.

07:59AM

07:59AM

08:00AM

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12 The helicopters had been registered in the
13 Philippines from 2009, they never reregistered them properly,
14 they never allowed an inspection of them, they never produced
15 any proof that they were airworthy, and they never produced
16 any proof that the pilots flying them were registered in the
17 Philippines and certified as Philippine pilots. That has come
18 into evidence as Exhibit 355, G-355, we see that notice
19 forcing the deregistration and delisting of all of these
20 helicopters for the failure to comply with the Philippine
21 authorities rules and regulations, just like they were failing
22 to comply with the FAA rules and regulations. But here we see
23 Jon Walker selling these helicopters to, you guessed it,
24 Pacific.Spotters. And we produced this to Your Honor, and you
25 see Jon Walker's signature on this document, and that's

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08:01AM

08:02AM

Direct - Khamvongsa

1 page 10 of our offer. So Jon Walker sells his helicopters to
2 himself, but in the name of a different company.

3 So now Pacific.Spotters owns these helicopters.
4 And now I think it's important for us to take a step back and
5 look at these helicopters that are sold to Pacific.Spotters.

6 These are helicopters that are all in the Second
7 Superseding Indictment. These are helicopters that have a
8 corollary U.S. registration number attached to them. These
9 are helicopters that Mr. McConwell produced in a list that he
10 represented to this Court was from the Philippine authorities
11 that identifies them as Hansen Helicopter helicopters that
12 they intend to use in the Philippines. In the list that
13 Mr. McConwell produced as Defense Exhibit 4-124, he also
14 references the name Pacific Spotters Corporation as being the
15 company under which these helicopters will be operating. But
16 what's really interesting about these helicopters, Your Honor,
17 is that they're on the MD Helicopters Destroyed List. They've
18 been involved in multiple accidents. And Jon Walker has
19 actually represented falsely to the FAA that several of them
20 have been lost at sea. And these are the helicopters that are
21 being sold to Pacific Spotters Corporation, so that after the
22 first indictment, the Defendant can continue his fraud in the
23 Philippines, because he couldn't continue his fraud here in
24 Guam.

25 We also attached, Your Honor, on page 10 of our

1 proffer, the photograph of Mr. Walker and the reference to his 08:04AM
2 U.S. passport number and the date on which that information 08:04AM
3 was produced in the Philippines to the Philippine authorities 08:04AM
4 so that Mr. Walker could sign the paper work for this 08:04AM
5 Philippine corporation, Pacific Spotters Corporation, so that 08:04AM
6 he could identify himself as the president and director of the 08:04AM
7 company, as the primary owner of the company, and represent to 08:04AM
8 the Philippine authorities that the company is a company. And 08:04AM
9 we produced the articles of incorporation for Pacific Spotters 08:04AM
10 Corporation signed by Jon Walker, identifying him, Your Honor, 08:04AM
11 as you could see here on page 11 and 12, as the primary owner, 08:04AM
12 the primary director, the primary controller, the person 08:05AM
13 responsible for the helicopters that are being leased pursuant 08:05AM
14 to contracts to boat companies out in the middle of the 08:05AM
15 Pacific Ocean. 08:05AM

16 Then we learned this morning that one of these 08:05AM
17 helicopters, which was previously N1DQ, which is currently 08:05AM
18 being operated in the Philippines as RPC 6911, crashed 08:05AM
19 yesterday and killed another pilot. It hasn't stopped, Your 08:05AM
20 Honor. 08:05AM

21 We also showed Your Honor in this proffer that 08:05AM
22 his employee and co-Counsel, Turner Kapp, filed a motion with 08:05AM
23 the Court, which is marked as a Government's Exhibit, 775, and 08:05AM
24 he represented the following to Judge Manibusan, he said, 08:05AM
25 "Hansen works with Pacific Spotters Corporation, a Philippines 08:06AM

Direct - Khamvongsa

1 company, that contracts with fishing vessels to supply
2 helicopters, pilots and mechanics." Page 2, paragraph 7,
3 "Since December 2018, I've been the vice president of
4 Pacific.Spotters." Page 2, paragraph 8, "In order to
5 discharge my professional duties to Hansen Helicopters, it is
6 necessary that I be in Guam most of the time, but it is also
7 necessary for me to travel overseas to the Philippines where
8 Hansen has its business activities." And he goes on through
9 page 4 in paragraphs 9 through 13 making these
10 representations.

11 Then we have in Exhibit 770, Mr. McConwell
12 stating the following, and I quote "The fact that Hansen
13 Helicopters has aviation business interests in the
14 Philippines, which requires the presence of Mr. Kapp as the
15 person in charge of maintenance and safety of Hansen
16 affiliates, aircraft, has been known to the government and
17 monitored." So Mr. McConwell is identifying Pacific.Spotters
18 as an affiliated company of Hansen Helicopters.

19 This is before we had the records that were
20 produced in evidence as Exhibit 3003 from the Philippine
21 authorities, showing what was given to them. The articles of
22 incorporation, again, Jon Walker, same group. We now own
23 this, we now operate it, etc.

24 Then we have Mr. Kapp filing something through
25 Mr. McConwell, Exhibit 771, where he indicates to the labor

Direct - Khamvongsa

1 department in the Philippines that he is working for 08:07AM
2 Pacific.Spotters, but stateside his employer is Limey Air. We 08:07AM
3 see another direct connection between Pacific.Spotters and 08:08AM
4 Limey Air if the receipt of the funds in Exhibit 2939 isn't 08:08AM
5 enough. 08:08AM

6 Then what we see, Your Honor, are the leases. 08:08AM
7 The leases for the helicopters that were being used in the 08:08AM
8 fraud against the United States. Those same helicopters are 08:08AM
9 now being used in leases for Pacific.Spotters, which of course 08:08AM
10 makes sense, because Jon Walker sold the helicopters from 08:08AM
11 himself to himself to continue conducting his fraud. We 08:08AM
12 produced to Your Honor leases showing that these helicopters 08:08AM
13 and these identical helicopters, and by the way, the examples 08:08AM
14 we produced to Your Honor shows he's so bold as to even still 08:08AM
15 be using N-numbered helicopters even though he deregistered 08:08AM
16 all of the helicopters with the FAA claiming to the FAA, 08:09AM
17 himself personally, that these helicopters were being 08:09AM
18 deregistered because they were going to be exported to the 08:09AM
19 Philippines, and they were going to be used in the 08:09AM
20 Philippines. You can't use U.S. registration numbers anymore 08:09AM
21 once you do that. We've heard that testimony. He knows that. 08:09AM
22 He's been an A&P mechanic for his entire career. He's been an 08:09AM
23 IA. He's worked with the FAA; intentional fraud. 08:09AM

24 And then we see, Your Honor, that Judge Manibusan 08:09AM
25 is concerned about the representations being made not only by 08:09AM

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1 Mr. Kapp, but by his attorney, Mr. McConwell. Because when
2 Judge Manibusan was initially being asked to allow travel to
3 the Philippines, he was being told by Mr. Kapp, co-defendant,
4 co-conspirator, employee and friend of Jon Walker, we have
5 this business in the Philippines, it's affiliated with Hansen
6 Helicopters, it's Pacific.Spotters, but I'm an employee of
7 Hansen Helicopters, so Judge, you don't have to worry about me
8 fleeing, don't be concerned about it. I get a diminutive
9 compensation from Pacific.Spotters. Everything -- you know, I
10 live in Guam, my employment is in Guam, you don't have to
11 worry about it. Judge Manibusan asks Mr. McConwell, Can you
12 explain the relationship between Pacific Spotters and Hansen
13 Helicopters? And Mr. McConwell can only say, Well, it's an
14 affiliate. It's an affiliate, can't tell you anymore than
15 that.

16 We also quoted Judge Manibusan when he said, when
17 he questioned the Defendant about why he never disclosed to
18 the probation officer as part of his pretrial requirements
19 that he was employed by this foreign corporation. His
20 attorney, Mr. McConwell said, It's because his interests were
21 de minimis, and there is no income from Pacific Spotters
22 Corporation, the Defendant just started earning income from
23 Pacific Spotters in January of 2019. The defense Counsel and
24 the Defendants would not explain anything further to Judge
25 Manibusan, and Judge Manibusan was concerned and said that he

Direct - Khamvongsa

1 found it suspect that the Defendant was representing to the 08:11AM
2 Court that the relationship with Pacific Spotters was de 08:11AM
3 minimis, that it was an affiliate of Hansen Helicopters, yet 08:11AM
4 when the judge was looking at the information, it seemed like 08:11AM
5 there was more going on there. 08:11AM

6 Now, Your Honor, this happened back in 2019. And 08:11AM
7 now here we are in 2022, and we have a lot more information, 08:11AM
8 and we know, yes, there was a lot going on there, which brings 08:11AM
9 us back to the point of this particular bank account. 08:11AM

10 Pacific.Spotters was created to continue the fraud, to 08:12AM
11 continue to use the same helicopters that are identified in 08:12AM
12 the Second Superseding Indictment, it was another shell 08:12AM
13 corporation, that just wasn't listed on the Defendants' 08:12AM
14 exhibit that it produced to the Court because it wasn't 08:12AM
15 created for this purpose until 2018. 08:12AM

16 We know that it was used by Jon Walker, created 08:12AM
17 by Jon Walker, we know that it had an association with the 08:12AM
18 Limey bank account because we see the money coming into the 08:12AM
19 Limey bank account from Pacific Spotters, and by the way, the 08:12AM
20 Limey account has the same address as Hansen Helicopters here 08:12AM
21 on Guam. Because of all of these reasons, Your Honor, it is 08:12AM
22 absolutely appropriate, relevant and very probative to this 08:12AM
23 fraud to show the modus operandi, that it is continuing for 08:12AM
24 this evidence to come in. That is why we presented this 08:13AM
25 information to the Court in this way so the Court could see 08:13AM

Direct - Khamvongsa

1 very clearly the connection between Jon Walker, Hansen
2 Helicopters, Limey Air, and Pacific Spotters Corporation.

3 THE COURT: All right. Thank you. Okay. Who
4 wishes to go -- you're going to argue the matter, Ms.
5 McConwell? Okay.

6 MS. M. MILLER: Oh. Ms. Miller just brought
7 something else up to my attention. So Pacific Spotters
8 Corporation actually lists the Guam address of Hansen
9 Helicopters on its website and on the "contact us" form on the
10 website. Just another connection showing this isn't some
11 random entity.

12 MS. MCCONWELL: Your Honor, can you hear me?

13 THE COURT: Bring the mic a little closer in.
14 There we go.

15 MS. MCCONWELL: Is that better?

16 THE COURT: Yeah. Thank you.

17 MS. MCCONWELL: Just holler at me if I need to be
18 louder.

19 THE COURT: Okay.

20 MS. MCCONWELL: I'm going to start in reverse on
21 the -- for Ms. Miller's argument. So she has spent sometime
22 claiming that Mr. McConwell made representations on behalf of
23 Mr. Kapp at a hearing on May 22nd, 2019. I would start by
24 saying that at this point in our proceeding, Mr. McConwell's
25 representing Hansen Helicopters, and the proffer for this

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1 Exhibit 2939-82 and 83 is relevant only to Counts 100
2 through 110, to which Hansen Helicopters is not a party.
3 That's my first thing. My second thing--

4 MS. M. MILLER: Your Honor, the question is then
5 why is she up here even arguing --

6 MS. MCCONWELL: Would you ask Ms. Miller not to
7 interrupt me?

8 THE COURT: Hold on. Let her finish, then you
9 could --

10 MS. M. MILLER: Okay.

11 THE COURT: What was that? Go ahead.

12 MS. MCCONWELL: And then if I would direct your
13 Court -- the Court's attention to -- because this is beyond
14 what was in our original filing last night. If you look at
15 ECF 237, Mr. McConwell was not present at that hearing,
16 Attorney Anthony Perez was the attorney that was representing
17 Mr. Kapp at that hearing on May 22nd, 2019.

18 THE COURT: Okay.

19 MS. MCCONWELL: And ultimately, any concerns that
20 Judge Manibusan had had about Mr. Kapp's travel was -- was
21 subsequently resolved, and in my brief, I listed those ECF
22 numbers which showed where those were.

23 THE COURT: So it sounds like the judge, when
24 this happened, allowed people to travel, right?

25 MS. MCCONWELL: That is true. It cleared it up,

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1 and Mr. Kapp was allowed to travel thereafter and the 08:16AM
2 government -- I believe all but one of the travel requests did 08:16AM
3 object to his travel. But each time, either Judge Manibusan 08:16AM
4 or Judge Bordallo did allow him to travel. 08:16AM

5 THE COURT: And has there been any revocation of 08:16AM
6 anyones travel so far? 08:16AM

7 MS. MCCONWELL: No, never. 08:16AM

8 THE COURT: For all the co-conspirators? 08:16AM

9 MS. MCCONWELL: He has -- I can't speak to all of 08:16AM
10 them, I know that Mr. Kapp's travel has never been revoked. 08:16AM
11 This was the only time where he was not allowed to have his 08:16AM
12 passport released to do travel, but then it was ultimately 08:16AM
13 resolved and he has -- he was never a flight risk, and it was 08:16AM
14 never revoked. I don't believe that any of the Defendants' 08:16AM
15 travel has ever been revoked. But... um... I can't speak to 08:16AM
16 -- I can't speak specifically to that. 08:16AM

17 THE COURT: Okay. 08:16AM

18 MS. MCCONWELL: And I'm sorry, Your Honor, I 08:16AM
19 thought I had my response up here. 08:17AM

20 (Pause.) 08:17AM

21 MS. MCCONWELL: I think I lost my battery, sorry 08:17AM
22 about that. 08:18AM

23 (Pause.) 08:18AM

24 MS. MCCONWELL: Ms. Miller spent an inordinate 08:18AM
25 amount of time discussing Exhibit 2939, and in Exhibit 2939, 08:18AM

Direct - Khamvongsa

1 Your Honor. Let me pull that up. She identifies a number of
2 exhibits. And I'm going to have to -- I have to be my own
3 person here.

4 THE COURT: Okay. That is -- I'm sorry. 2939,
5 which --

6 MS. MCCONWELL: 2939, 1 through 81 is what's been
7 admitted to Court already.

8 THE COURT: Right. She only cited a certain
9 number. Which one are you looking at?

10 MS. MCCONWELL: Right. I'm going to be -- I'm
11 going to -- we're going to kind of go over a number of the
12 things in 2939 because I think it's important for the Court to
13 see the entire exhibit.

14 And then, Carmen, do I have the ability to
15 publish? And that's one of these?

16 (Pause.)

17 MS. MCCONWELL: Well, thank you. As our
18 threshold, Your Honor, I think in our motion we said we
19 weren't given notice that this issue was going to be
20 revisited. We had discussed this -- this ad nauseam, and we
21 supplied to the Court excerpts of the transcript which -- at
22 our Exhibit 2, which went through -- wherein we exhaustively
23 discussed Exhibit 2939-82 and 83 and why it should not be
24 admitted at that time. So we object to this being revisited
25 at this time.

1 In our Exhibits 3 and 4 that we attached to our
2 motion, we attached to you the Exhibit List that was provided
3 to us by Ms. Miller, and at no time did she indicate that the
4 government intended to revisit this issue or many of these
5 exhibits that she has attached to her motion at this time. So
6 we object to having any lack of notice of these particular
7 exhibits.

8 We also submit that she represent --
9 misrepresents Limey Air Service when she knows -- and it is
10 included in Exhibit 239, if you look at Exhibit 239, and I'm
11 just going to walk through it, it's not in the complete order
12 of my filing but I think it's important at the pages 1
13 through 12, and you can see it on the screen, page 1. We see
14 that Limey Air Service did open up a number of bank accounts,
15 and we see that the authorized individuals on each and every
16 one of these bank accounts is Mr. Crowe, Mr. Kapp and
17 Mr. Reed. Mr. Walker's signature is not contained on any one
18 of these signature cards for the bank accounts that
19 Mr. Khamvongsa is testifying.

20 If we go to 39... if we go to 39, which is for --
21 which is at the end, and I'm going to go up so that you could
22 see what the document is that it's attached to. It's
23 basically the end of the bylaws for Limey Air Service which
24 was created in -- actually it starts on page 13, which was
25 created in 1999. And Mr. Walker was just one of the officers

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1 of that. And when we go to where the ownership of Limey Air
2 Service is, Hansen Helicopters is the majority owner of Limey
3 Air Service, Inc., which was lawfully created in Guam. And
4 I'm going to show you on page 439. So it shows that Hansen
5 Helicopters, not Jon Walker, is the predominant owner of Limey
6 Air Service, which is a valid Guam corporation.

7 Additionally -- and so throughout, Ms. Miller
8 just sort of cobbles back and forth, she identifies Hansen
9 Helicopters in her Exhibit 2939-72, which having shareholder
10 meeting minutes, where they discussed Wilma's. Well, Wilma's
11 is not Pacific Spotters.

12 She goes through and she shows then that Limey
13 Air Service, which is a valid Guam corporation, at pages 73,
14 74 and 75 -- let me go to there. There is page 73. 73. In
15 2018, it shows that they had a board of directors meeting and
16 then they also -- they also -- a month -- later in the month
17 had board of directors meetings and you could see that they --
18 they signed things as shareholders and directors.

19 In our Exhibit 5 that's attached to the motion,
20 are letters from the Bank of Hawaii indicate that they're
21 going to be closing all of the accounts that were at the Bank
22 of Hawaii that Agent Khamvongsa had actually issued the
23 original subpoena against prior -- at the time of the first --
24 or the first indictment. And so thereafter, Bank of Hawaii
25 told them that they were going to close all their accounts.

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1 And so in this time period -- and Agent Khamvongsa and the
2 government conveniently leave that part out. That there was
3 some scrambling to get some accounts opened so that they could
4 continue operating their business and Judge Manibusan
5 indicated that Hansen Helicopters could continue operating its
6 business, and as we know, Hansen Helicopters was acting as an
7 operator for a number of different entities.

8 So throughout, Limey Air Service, additionally
9 when we look at 2939, pages 80 and 81, they did file --
10 actually they filed a number of places, but in these in
11 particular, were for years 2017 and 2018. And these are
12 annual reports that were signed by Defendant Crowe, not
13 Walker. So if he added an S and called it Limey Air Services
14 instead of Limey Air Service, that's -- that's a typographical
15 error. And if we look at what their actual operations are, it
16 shows what their operations are. The government likes to say
17 it's just specifically for leasing but it's not, it's for a
18 broader business purpose.

19 And their next -- the Limey begins to open, well,
20 they indicate Limey has received \$5 million in transfers, but
21 according to Mr. Khamvongsa, the annual revenues for the
22 organization is \$20 million, and so clearly, this wasn't a
23 wholehearted shift of any type of operations because this is a
24 de minimus amount. When you look at the amounts that have
25 been coming -- that were coming through.

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1 Their next exhibit that they want the Court to
2 look at that they identified on page 8 is an exhibit that has
3 not been admitted. And even if it had, the date on this is
4 2012, which is not relevant to the dates which are on pages 82
5 and 83, which begin in August of '18 and end in about a year
6 later in '19.

7 The next thing that the prosecution wants you to
8 look at is on their 303-18[sic], 19 which indicates there is a
9 bulk sales resolution. If you actually look at the document,
10 this indicates that this is a resolution by the board of
11 directors for Jan's Helicopters Service, located in the
12 Philippines. And so Mr. Walker signed this as a board
13 director -- as a director, and not in any other ownership
14 capacity, in individual ownership capacity.

15 Then with Pacific Spotters, the government wants
16 to say that it's solely on leasing helicopters. If you look
17 at its primary purpose, which is contained -- is contained on
18 page 22 of 3003 and is admitted to this Court, it is in the
19 business -- primary function is to overhaul, repair and
20 maintain all types of aircraft. A secondary purchase involves
21 -- or secondary purpose involves purchase, acquisition
22 ownership, leasing, selling and conveying of any kind of
23 property, which is able -- which it can do.

24 The 3003 that they reference, 33 and 34, is out
25 of context. You need to look at Exhibit 3, and let me find

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1 it, 3,000 -- at page 30, because in that it shows the actual
2 ownership interest of Pacific Spotters. And if the Court will
3 -- let me pull that up so that I can show the Court. Bring it
4 up so you could see it. 3003 at page 30 shows what the
5 ownership interest -- there is another page, 31 after this.
6 But that was not admitted. This shows all but 15% of the
7 ownership and it shows that Mr. Walker only owns 32% of this
8 entity. So he's -- he's not -- he does not own the
9 controlling interest in this particular entity.

10 Additionally, when we -- at 3003 at pages 35 and
11 36, we have reviewed those previously when Mr. Marty was here,
12 I believe it was Mr. Marty. And in those, it indicates what
13 the -- what the functions are for the board of directors and
14 what also the roles and obligations and the duties of the
15 various officers, not just who the president of that
16 corporation is.

17 Then with regard to the Exhibits 775, 770, 771,
18 I'm sorry, ECF, the ECF 238, I mean those are all pleadings,
19 those are all out of court. The 775 has to do with -- and 770
20 have to do with bond release applications of no party that is
21 in this trial right now. And Hansen Helicopters is not in, as
22 I said, is not in this particular count. The release document
23 --

24 THE COURT: Would the fact that statements made
25 at a bail detention hearing about dealing with

1 co-conspirators, would that not be relevant to an issue that
2 it might be relevant to?

3 MS. MCCONWELL: No. And we discussed this on
4 June 8th, that statements made by other -- that others --
5 well, first of all, Hansen Helicopters is not in the count.
6 And these aren't relative to -- these aren't relative to the
7 wire fraud or the money laundering count. The government is
8 very specific with Counts 101 through 104, and those are
9 specifically cited and you have specific evidence about that.
10 And also 105 through 110. And these ECF do not relate to any
11 of those monetary transactions that form the basis for those
12 particular -- those transactions. All those transactions
13 occurred in 2015 and 2016. And so the -- the document they're
14 trying to get in is 2018, 2019, which there is no relationship
15 to 2015 and 2016.

16 Then the same -- the government continues to
17 attempt to use as its offer of proof, which they've attached
18 leases that are primarily unsigned or not -- don't relate to
19 the time period in question. In those counts, 100
20 through 110. And so we would ask that the Court deny the
21 admission of 2939-82, 83. I think that covered all of my
22 things.

23 Mr. Martin?

24 (Pause.)

25 THE COURT: Okay. Thank you.

1 MS. MCCONWELL: Let me look and make sure there 08:33AM
2 is... 08:33AM

3 THE COURT: Okay. 08:33AM

4 (Pause.) 08:33AM

5 MS. MCCONWELL: Yeah. I think this is a miss -- 08:33AM
6 yeah, we talked about this, we talked about -- 08:33AM

7 MS. M. MILLER: I can't hear you, Ms. McConwell. 08:33AM
8 I'm sorry. 08:33AM

9 MS. MCCONWELL: Sure. That it's a 08:33AM
10 misrepresentation to say that Jon Walker sold to Pacific 08:33AM
11 Spotters what he signed was the -- as a director on the 08:33AM
12 exhibit that's attached, that he signed it bulk sales, which 08:33AM
13 is required apparently when you're going to sell assets as 08:33AM
14 opposed to a straight up corporation. 08:33AM

15 THE COURT: Thank you. 08:33AM

16 MR. MARTIN: Your Honor, we were asked to come to 08:34AM
17 court today and argue the admissibility of Exhibits 2939-81 08:34AM
18 and 82, I believe. 08:34AM

19 MS. MCCONWELL: 83. 08:34AM

20 MR. MARTIN: 82, 83. I stand corrected. And 08:35AM
21 this is not the first time we've done it. We submitted the 08:35AM
22 transcript. This is the third time we argued the 08:35AM
23 admissibility of this exhibit. This is the transcript of 08:35AM
24 Mr. Khamvongsa from the day of June 8th. He was on the stand 08:35AM
25 from ten -- from 10:03 until approximately 5:27, June 8th. He 08:35AM

Direct - Khamvongsa

1 was on the stand all day Monday, Your Honor. And he was on
2 the stand for however long he was yesterday, and he's still on
3 the stand, and the government is still in direct examination
4 under their second lawyer in this case.

5 And we have heard the government argue and
6 chastise Counsel, and I say that, Your Honor, because I have
7 tried in excess of 200 jury trials in my career. I have never
8 in my life been asked more than -- no less than three times to
9 be sanctioned by a Court, which I have in this case. I've
10 never been accused of misrepresenting anything to a Court as I
11 have in this case. I've never heard co-Counsel be attacked,
12 as I have heard in this case, when he wasn't even in Court and
13 had nothing do with what he's been accused of. And it is
14 offensive to me that that has continued to occur in this case.
15 And I know the Court wants us to, "get along," and I agree
16 with that, Judge, but it is very difficult to do when every
17 time you come to court, you wake up in the morning, as I did
18 this morning, and I looked at a reply that was filed by the
19 government that starts out, "unfortunately defense Counsel's
20 misrepresentations to this Court continue."

21 The government has not argued law, they have
22 stood up here and given you a scenario in this case of Jon
23 Walker, in our opinion, is a bad person. And here's why he's
24 bad, I don't have the evidence to support it, but because he's
25 a bad person, I want you to allow us to take this indictment,

Direct - Khamvongsa

1 that this is our third indictment, take this indictment and 08:37AM
2 reform it, and let us argue things that aren't in the 08:37AM
3 indictment, admit exhibits that we haven't provided to Counsel 08:37AM
4 in this case. 08:37AM

5 As you'll recall on June 8th, I stood over there 08:37AM
6 and Ms. McConwell stood over there, and we had a stack of new 08:37AM
7 evidence that was six or seven inches thick that we had just 08:37AM
8 gotten. And the Court made comments about the fact that I 08:37AM
9 think the government finally conceded they had been giving us 08:37AM
10 new evidence every -- they said ten days of the 27 days we 08:37AM
11 were in trial, I would say it's more like 20 days of the 08:37AM
12 27 days we were in trial. Way beyond the Court's scheduling 08:38AM
13 order. And we continue to get it today, Your Honor. I filed 08:38AM
14 a motion this morning because the government gave me four new 08:38AM
15 summary charts, now they call them demonstrative aids, but 08:38AM
16 they're summary charts that they intend to use in this case. 08:38AM
17 And while we've been here this morning, I've got e-mails about 08:38AM
18 new summary charts they call demonstrative aids. 08:38AM

19 I submit to you that this indictment laid the 08:38AM
20 groundwork and the framework for what we are defending 08:38AM
21 against. That's what every indictment does. And what we've 08:38AM
22 gotten here is the government comes up every day with a 08:38AM
23 brand-new theory of why we should introduce new evidence. 08:38AM

24 As we heard this morning, something about a 08:38AM
25 helicopter crash that nobody knows the facts of, nobody knows 08:38AM

Direct - Khamvongsa

1 a thing about it, what it was. They come in here this morning 08:38AM
2 and accuse Mr. Walker of being in the Philippines in 2018. 08:38AM
3 I'm having his passport delivered here, Your Honor. Last time 08:38AM
4 he was in the Philippines was 2016. I will have the passport 08:38AM
5 here, I want to introduce it into evidence as a Court Exhibit 08:39AM
6 for you to know when he was here, so that we could put that 08:39AM
7 issue to rest. But they come in here and make these 08:39AM
8 allegations with no support whatsoever, make us a, "bad 08:39AM
9 person," in their eyes, and ask you on passion to admit an 08:39AM
10 exhibit which doesn't meet the definitions of what's in the -- 08:39AM
11 in this indictment here, Your Honor. 08:39AM

12 They have not come in here and said this is why 08:39AM
13 this -- this is why Pacific Spotters, that's not mentioned in 08:39AM
14 the indictment anywhere, this exhibit about them should be 08:39AM
15 admitted. I will submit to you, Your Honor, that the 08:39AM
16 government can't go outside the four corners of the 08:39AM
17 indictment. They can't reform the indictment. They need to 08:39AM
18 argue legally, not facts that they make up and write on this 08:39AM
19 board for you, why this exhibit should be admitted. They need 08:39AM
20 to give us notice of what we're going to have to defend 08:40AM
21 against. And I don't know, Your Honor, I don't think it's 08:40AM
22 going to get resolved. I don't think we're ever going to get 08:40AM
23 along as long as every morning when I wake up, I'm accused of 08:40AM
24 misrepresentation and Mr. McConwell and Ms. McConwell are. 08:40AM
25 And I don't know how to deal with that issue, but I'll abide 08:40AM

Direct - Khamvongsa

1 by whatever Court -- whatever order this Court --

2 THE COURT: Well, let me just say, look, I mean
3 in the heat of trial, people get off and they start becoming
4 quite accusatory, overzealous, probably insulting. I don't
5 like that, I told everybody that. Civility is very important
6 in my courtroom.

7 Now if I thought that anybody was out of hand
8 already, I would have said, hey, you're out of my Court, I
9 would have sanctioned you. Let me tell you, my 30 years as a
10 judge, 16 of that as a federal judge, it's rare that I
11 sanction a lawyer. I will tell that you. It's rare that
12 attorneys come to me and ask that other attorneys be
13 sanctioned.

14 MR. MARTIN: It's occurred to me three times in
15 this Court, Your Honor. Three motions have been filed where I
16 have been asked to be sanctioned by you. Now you have done
17 nothing. And I understand --

18 THE COURT: I think -- you know, it's true, I
19 have -- if I really felt there was legitimacy to any motion,
20 or if I felt that -- you know, there was other motions too
21 that were filed regarding Mr. Lujan and others which I have
22 kept in abeyance because that was more insulting words, so
23 forth. And I said, I will deal with those later, but if I
24 felt that there was anything immediate that needed to be
25 addressed, I would have warned -- I have warned all of you,

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1 Counsels, both of you. Not just both of you, everybody that's
2 been in this court from day one when I took over. Of course,
3 the magistrate judges have had the case longer than I have
4 because they were involved in the discovery and all the three
5 indictments, and then by the time it got to me, then now it's
6 here, we're in trial. So, you know, I'm sorry that you are
7 feeling that way, you know, of course the Court always feels
8 that civility is paramount. I expect that. I -- I -- I,
9 myself, am civil to all of you. I expect you to be civil to
10 me and to each other. So I would warn -- because I can see
11 that you're quite upset about this, I would warn everyone to
12 be civil and respectful to each other. You all have your own
13 interests in representing who -- your parties. And there is
14 no -- there is no reason why one Counsel should be berated
15 because he or she represented somebody that the other party
16 may not like, it doesn't matter. So like I said, I continue
17 to order that there be civility. I think we've controlled
18 everything pretty much. We just have to get through this
19 trial.

20 To the extent that there is motions filed, and
21 there is objections, the Court has ruled on those. And so --

22 MR. MARTIN: Well, Your Honor, and I appreciate
23 that. It just -- it rakes me over the coals when there is an
24 ECF 237 that clearly shows Mr. McConwell wasn't present when
25 something happened, and then we are read quotes of things he

1 said that he didn't say, that apparently -- and then
2 interpretations of what that means.

3 THE COURT: All right. So what we can do -- let
4 me just say --

5 MS. M. MILLER: Let me just clarify the record.

6 THE COURT: No, wait, wait, wait. Ms. Miller,
7 just wait until he's done.

8 MS. M. MILLER: I just want --

9 THE COURT: No, no, no.

10 MS. M. MILLER: Okay.

11 THE COURT: One person at a time. Let me say,
12 there is ways that the Court can handle any misrepresentations
13 that have been brought before it, motion to strike, sanctions,
14 so forth. We can take care of that later. My goal is to just
15 get the trial done with. And these issues of misconduct,
16 we'll take care of that later.

17 MR. MARTIN: And in relation to the motion, Your
18 Honor.

19 THE COURT: Yeah?

20 MR. MARTIN: This is a legal argument based on
21 the four corners of the indictment. That's our position.

22 THE COURT: All right.

23 MR. MARTIN: We've not had any notice, the
24 government has not said anything about this indictment. They
25 could pull up any documents they want, but unless they relate

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1 to the four corners of this indictment, we shouldn't have to 08:44AM
2 defend against our life through -- for eternity unless they're 08:44AM
3 accusing us of an incident or an act in the four corners of 08:44AM
4 this indictment. And what they're doing is -- Mr. Walker is 08:44AM
5 basically having to defend from birth to today, because the 08:44AM
6 government says this is just a suggestion, it's really not -- 08:44AM
7 I'm holding my hand on the indictment, this is just a 08:44AM
8 suggestion, it's really not that important, we're just going 08:44AM
9 to bring in whatever evidence we want. And that's not the 08:44AM
10 law, Your Honor. And I object to the way they're trying to do 08:44AM
11 this. 08:45AM

12 THE COURT: Well, do know that I -- I mean, the 08:45AM
13 law is clear that the defendant or all defendants that come 08:45AM
14 before the Court must be apprised of what they have to be 08:45AM
15 defending against. And if it's not within the four corners of 08:45AM
16 the indictment, then it's not within it. Then the Court 08:45AM
17 handles that in that way. And that's probably your best 08:45AM
18 argument, I guess. And so let's just -- we'll proceed 08:45AM
19 forward. Okay? 08:45AM

20 MR. MARTIN: Thank you, Your Honor. 08:45AM

21 THE COURT: All right. Thank you. Ms. Miller, 08:45AM
22 you want to reply? 08:45AM

23 MS. M. MILLER: Yes, Your Honor, I do. 08:45AM

24 THE COURT: I'm sorry? Okay. Hold on. You got 08:45AM
25 it? Yes? 08:45AM

1 MS. M. MILLER: Okay. 08:45AM

2 MR. MARTIN: May I do one thing? I apologize. 08:45AM

3 THE COURT: Yes, yes. 08:45AM

4 MR. MARTIN: May I have a -- I have Mr. Walker's 08:45AM
5 passport, Your Honor. I'd like to have a copy made of it and 08:45AM
6 let -- 08:45AM

7 THE COURT: You just wanted that timeframe? We 08:45AM
8 we're talking about what year that was? You probably don't 08:45AM
9 have to do everything, you just probably want the year of -- 08:45AM
10 what did you say? What year was it? 08:45AM

11 MR. MARTIN: There is only actually only one page 08:45AM
12 in the entire passport, Your Honor. 08:45AM

13 THE COURT: For -- is it 2018? 08:46AM

14 MR. MARTIN: Yeah. There is only one page in the 08:46AM
15 entire passport. 08:46AM

16 THE COURT: Okay. Well, give it to Carmen then. 08:46AM

17 MR. MARTIN: If we could make a copy and provide 08:46AM
18 it to all Counsel, but it should show exactly where he has 08:46AM
19 been. 08:46AM

20 THE COURT: Okay. 08:46AM

21 MS. M. MILLER: And, Your Honor, I don't want 08:46AM
22 just a copy of that one page. I'm going to need a copy of the 08:46AM
23 actual passport number, etc., because we just submitted into 08:46AM
24 Court a copy of his passport with a notarization from the 08:46AM
25 Philippine authorities dated 2018. So if we're not producing 08:46AM

1 a passport to the Court that doesn't have that information in, 08:46AM
2 we've got yet another thing I guess we'll have to address 08:46AM
3 later with Mr. Walker. 08:46AM

4 THE COURT: Let me just say, I don't know. Let's 08:46AM
5 just know that -- we know that the Philippines is not 08:46AM
6 altogether with their... well, I shouldn't -- I'm not trying 08:46AM
7 to insult them, but they may not be altogether with their 08:46AM
8 processes, if you will. So I'm not sure. When you -- when 08:46AM
9 there is -- I mean, myself, I have traveled to the 08:46AM
10 Philippines, and I've given them my U.S. passport, that -- I 08:47AM
11 mean, I've seen that. But how that plays out all the time, 08:47AM
12 I'm not sure. And this issue of something other than a 08:47AM
13 passport to gain entry into the Philippines, I don't know 08:47AM
14 about that either. So, again, if he wants to give that to 08:47AM
15 you, we'll give him a copy. Then you guys -- it's your 08:47AM
16 burden, so I don't think -- 08:47AM

17 MS. M. MILLER: Okay. 08:47AM

18 THE COURT: It's the prosecutor's burden. You 08:47AM
19 guys have got to be sure of this because you are accusing him 08:47AM
20 of violating a Court order. That is a major accusation. That 08:47AM
21 can cause him -- you're asking the Court to remand him to the 08:47AM
22 custody of the marshals. So be sure what you say. 08:47AM

23 MS. M. MILLER: Oh, no, we will file the 08:47AM
24 appropriate motion and we're in the process of getting the -- 08:47AM

25 THE COURT: Okay. Well, file it. 08:47AM

Direct - Khamvongsa

1 MS. M. MILLER: -- evidence.

08:47AM

2 THE COURT: I'm just saying -- I'm saying that if
3 his attorney has said, look, I got my passport and it doesn't
4 show a stamp that I -- that he had traveled to the Philippines
5 during the period in question, then that's one thing.

08:47AM

08:47AM

08:47AM

08:47AM

6 MS. M. MILLER: Right.

08:48AM

7 THE COURT: If there is another way to enter the
8 Philippines and exit the Philippines without a passport, I
9 don't know.

08:48AM

08:48AM

08:48AM

10 MS. M. MILLER: And it has to do with, Your
11 Honor, what we've already submitted into evidence with Your
12 Honor, that shows a copy of his passport was provided to the
13 Philippine authorities and they notarized him signing off on
14 corporate documents for Pacific Spotters Corporation, using
15 his passport as his identifier. So this is a collateral
16 issue.

08:48AM

08:48AM

08:48AM

08:48AM

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08:48AM

08:48AM

17 THE COURT: No, I guess my point is, let's assume
18 --

08:48AM

08:48AM

19 MS. M. MILLER: It's a collateral issue. We'll
20 address it.

08:48AM

08:48AM

21 THE COURT: Yeah, we can address it later, but my
22 point is, since you're bringing it up and Mr. Martin has gone
23 out of his way to get the passport.

08:48AM

08:48AM

08:48AM

24 MS. M. MILLER: Yes, Your Honor.

08:48AM

25 THE COURT: Assuming that's true, that you have

08:48AM

1 this issue that Mr. Walker may have presented this passport, 08:48AM
2 there was a signature on another piece of paper, I mean, then 08:48AM
3 we have to call into question the Philippines processes. And 08:48AM
4 we're going to have a whole trial on that, and frankly, I'm 08:49AM
5 not prepared to have a whole trial on that. 08:49AM

6 I think that when we -- even myself, when I -- 08:49AM
7 I've been vetted as a federal judge; they take my passport 08:49AM
8 from birth or 18 years old to current, and they look at every 08:49AM
9 single entry of any foreign country that I've been to. There 08:49AM
10 is a reliance that we're hoping that every foreign country 08:49AM
11 would have followed their own processes. 08:49AM

12 Now, I don't know if the Philippines has a 08:49AM
13 different process. I'm going to gather that he's probably not 08:49AM
14 a -- there is not dual citizenship here. I don't know. 08:49AM

15 Anyway, putting that aside, you -- he'll get a 08:49AM
16 copy of that. You guys figure it out, and let's not get 08:49AM
17 distracted by that. But you can do a quick rebuttal because 08:49AM
18 the jurors are here. 08:49AM

19 MS. M. MILLER: Yes, Your Honor, definitely. 08:49AM

20 THE COURT: Right? 08:49AM

21 MS. M. MILLER: First of all, Mr. Martin didn't 08:49AM
22 address any of the substantive arguments that the government 08:49AM
23 -- 08:49AM

24 THE COURT: Okay. Putting that aside. I read 08:49AM
25 everything on the substantive arguments. What about his 08:49AM

1 arguments that they have had no notice in the Second
2 Superseding Indictment?

3 MS. M. MILLER: Two things, Your Honor. First of
4 all --

5 THE COURT: That's his only argument really. Or
6 best argument.

7 MS. M. MILLER: If you look at the Second
8 Superseding Indictment, Your Honor.

9 THE COURT: Yeah.

10 MS. M. MILLER: Page 12.

11 THE COURT: Uh-huh, go ahead.

12 MS. M. MILLER: Sub paragraph N, says using shell
13 companies to conceal the true fraudulent actors in the scheme
14 to avoid criminal culpability. So that's on page 12 of the
15 Second Superseding Indictment and it is identified as one of
16 the ways in which the Defendants, the manner and means of
17 their conspiracy. So it is clearly in the indictment. The
18 other thing I would --

19 THE COURT: All right. Okay. Hold on. Strike
20 that -- not strike that, but where does it say, and the
21 specific one is Pacific Spotters, right? We're talking about
22 Pacific Spotters as a shell --

23 MS. M. MILLER: Pacific.Spotters, yes, Your
24 Honor.

25 THE COURT: Sometimes it's called Pacific

1 Spotters, sometimes it's called Pacific.Spotters. Are they
2 all the same?

3 MS. M. MILLER: They are. They use them both
4 ways.

5 THE COURT: So where in the indictment does it
6 talk about Pacific Spotters?

7 MS. M. MILLER: It does not specifically identify
8 all of the shell corporations in the indictment.

9 THE COURT: So let me ask you this though.

10 MS. M. MILLER: Yes.

11 THE COURT: Does that mean that Mr. Walker does
12 not have notice that Pacific Spotters is an issue for him?

13 MS. M. MILLER: Absolutely not, Your Honor, it
14 does not mean that. As a matter of fact, Your Honor, if you
15 look at your order, ECF 1387, the Defendants -- this is an
16 issue that has come up repeatedly, repeatedly.

17 THE COURT: Yes.

18 MS. M. MILLER: If you recall during the
19 deposition of Mr. Marinho, he talked about Pacific Spotters
20 being one of the entities being used by the Defendants because
21 his paycheck came from them. The government brought that up.
22 The government has been arguing this issue since the first
23 indictment so --

24 THE COURT: Okay. But even if the government has
25 been arguing, why didn't the government put down Pacific

1 Spotters within this indictment?

08:51AM

2 MS. M. MILLER: The government didn't name any of
3 the 47 shell companies that the Defendant was using, but the
4 government did say that the Defendant was using these shell
5 companies. The government's theory of the case from day one
6 has been that the shell companies are all alter egos of Jon
7 Walker. When you're a 99.99% owner of a corporate entity,
8 that is not a valid structure.

08:51AM

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9 THE COURT: Okay. But it's not as if the
10 government did not know who the shell companies were. Is that
11 not true?

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08:52AM

08:52AM

12 MS. M. MILLER: Your Honor, over time the
13 government has developed its knowledge regarding all of the
14 shell companies. As a matter of fact --

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15 THE COURT: And that's obvious because the
16 prosecution has gone through three indictments with three
17 grand jurors.

08:52AM

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08:52AM

18 MS. M. MILLER: Well, yes, because the Defendant
19 continues to commit crimes.

08:52AM

08:52AM

20 THE COURT: Okay. Yeah --

08:52AM

21 MS. M. MILLER: And that's why we superseded, as
22 you know.

08:52AM

08:52AM

23 THE COURT: Yeah, I know that.

08:52AM

24 MS. M. MILLER: For the second time, because Ms.
25 McConwell says, well, deposits in 18 and 19 aren't relevant.

08:52AM

08:52AM

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1 That's the whole point why -- why we superseded and added all
2 of those counts.

3 THE COURT: I understand that, but my question
4 is --

5 MS. M. MILLER: Here's --

6 THE COURT: When -- okay, I understand --

7 MS. M. MILLER: No, no.

8 THE COURT: I think I've memorized that chart.

9 MS. M. MILLER: Oh, you probably have, but what
10 is important about what's not on here?

11 THE COURT: Yeah.

12 MS. M. MILLER: Pacific Spotters.

13 THE COURT: Correct.

14 MS. M. MILLER: And we filed motions with the
15 Court, and of course you don't have everything that has been
16 in front of Judge Bordallo. When Judge Manibusan was the
17 Magistrate Judge in this case, this issue came up, this issue
18 was litigated. Judge Manibusan was very concerned about the
19 fact that Pacific Spotters was now being used by Jon Walker to
20 continue the fraud. When Judge Manibusan was replaced by
21 Judge Bordallo --

22 THE COURT: I -- can I tell you that? I know
23 that, I read that. My only question is, he's arguing, the
24 defense is arguing, that look, why didn't the prosecutors put
25 in any or all or some or whatever of the shell companies

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1 because -- at least the ones that they knew of?

08:53AM

2 MS. M. MILLER: What we did, Your Honor, is we
3 have identified repeatedly throughout this case, if you look
4 at the ECF filings in this case going back to 2018.

08:53AM

08:53AM

08:53AM

5 THE COURT: I don't disagree -- I don't disagree
6 -- wait, wait, wait. I don't disagree with you. I'm putting
7 you up to the highest burden because you guys are the
8 prosecutors.

08:54AM

08:54AM

08:54AM

08:54AM

9 MS. M. MILLER: Of course.

08:54AM

10 THE COURT: My question is, you guys have gone
11 through the grand jury three times. That's a lot of times.
12 This is a big case for both the United States of America and
13 the Defendants.

08:54AM

08:54AM

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08:54AM

14 MS. M. MILLER: Yes.

08:54AM

15 THE COURT: This is a 100-count indictment.

08:54AM

16 MS. M. MILLER: And what is the purpose of an
17 indictment? To give notice. And there is case law --

08:54AM

08:54AM

18 THE COURT: They're saying they don't have
19 notice.

08:54AM

08:54AM

20 MS. M. MILLER: They do have -- that is
21 absolutely incorrect, Your Honor. They haven't filed a motion
22 for --

08:54AM

08:54AM

08:54AM

23 THE COURT: Well, what about -- let me ask you
24 this, let's change the crime. What if this was a rape case?
25 And the defendant, I'm not saying Mr. Walker, but a defendant

08:54AM

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08:54AM

1 says, look, he's been accused of raping one woman, just one
2 woman, but there is accusations that there is a lot of other
3 women that have been raped.

4 MS. M. MILLER: That's right.

5 THE COURT: During that period of time --

6 MS. M. MILLER: Yes.

7 THE COURT: The question is --

8 MS. M. MILLER: And that evidence may come in
9 through the case to show --

10 THE COURT: It could come in.

11 MS. M. MILLER: -- for modus operandi.

12 THE COURT: Possible.

13 MS. M. MILLER: Right? And the jury would be
14 instructed that that evidence is being brought in to show the
15 modus operandi and that evidence -- you wouldn't name every
16 single one of those rape victims in the indictment. Paragraph
17 -- not only sub paragraph N, but in paragraph 127, let me tell
18 you where these are in the indictment. Paragraph 127 in the
19 Second Superseding Indictment says, specifically, that the
20 Defendant used numerous shell corporations, including but not
21 limited to, and we talk about those shell corporations.

22 The purpose of an indictment, as the Ninth
23 Circuit has said and every other circuit has said, is to give
24 general notice to the defendant. If the defendant said, I
25 have insufficient notice, and the defendant files a motion for

1 a Bill of Particulars, and the Court, and you have, Your
2 Honor, in this case granted motions for bills of particulars
3 requiring the government to identify more specifically what it
4 meant or what it charged. They never filed a motion for Bill
5 of Particulars on the reference to the shell companies either
6 to the first part, which is paragraph 47, 48, and nor did they
7 file motion for Bill of Particulars as to paragraph 127 of the
8 Second Superseding Indictment.

9 THE COURT: Okay. But my question is, if you
10 guys knew of some or all or -- of the names of the shell
11 corporations, why not name them?

12 MS. M. MILLER: We did. In all of our pleadings,
13 Your Honor. If I went through ECF --

14 THE COURT: Okay, I'm saying in the indictment,
15 in the indictment.

16 MS. M. MILLER: Supersede again to now name and
17 add every single one of shell companies used?

18 THE COURT: No. I'm talking about in any one of
19 these indictments.

20 MS. M. MILLER: Because there was -- our position
21 has always been that Jon Walker is the puppeteer. All of
22 these companies are alter egos of Jon Walker. The evidence is
23 relevant. We're missing the point here, the evidence is
24 relevant to prove --

25 THE COURT: That's not the question though.

1 That's not the question of relevancy. He's bringing up the
2 issue of notice.

3 MS. M. MILLER: There is notice. There is notice
4 throughout the discovery in this case.

5 THE COURT: You're saying so the discovery in and
6 of itself is sufficient notice --

7 MS. M. MILLER: Yes.

8 THE COURT: -- to say to the Defendant, hey, you
9 better be prepared --

10 MS. M. MILLER: Yes.

11 THE COURT: -- to --

12 MS. M. MILLER: Yes.

13 THE COURT: -- defend --

14 MS. M. MILLER: Yes.

15 THE COURT: -- on an indictment that doesn't name
16 any of these shell corporations?

17 MS. M. MILLER: Yes. And, Your Honor, in ECF, if
18 you look at ECF 1387, you entered an order indicating that the
19 government was correct that the use of the shell companies is
20 relevant because Jon Walker did not act under his own name.
21 From day one, the discovery has -- there are hundreds of
22 documents in the discovery with Pacific Spotters Corporation.
23 We were litigating the issue of Pacific Spotters Corporation
24 and the relationship to the Defendants. We have filed
25 motions, we have filed pleadings. The shell corporations use

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1 has been in the Second Superseding Indictment. Our theory of
2 the case from the time this case was supposed to go to trial
3 back in 2020 until now has always been that Jon Walker used
4 multiple corporations as alter egos.

5 THE COURT: The Court understands your argument,
6 your theory, your pleadings. I guess the question is, then
7 why not just name them? In the indictment? If you know it,
8 name it.

9 MS. M. MILLER: They never ever -- they never
10 filed a motion saying, tell us which shell corporations you
11 are referencing in the indictment. And, Your Honor, we have
12 withstood numerous motions to dismiss.

13 THE COURT: Let me just ask you this, could they
14 strategically not have done that -- just put that aside.
15 Could the defense strategically not have done that and said,
16 look, the prosecution may have messed up because they did not
17 -- they did not submit with particularity the indictment with
18 the shell corporations when they presented it to the grand
19 jury? Is that possible?

20 MS. M. MILLER: I have no idea.

21 THE COURT: Okay. All right. Anything further,
22 Counsels?

23 MS. M. MILLER: No, but I do think that I want on
24 the record, Your Honor, that the Ninth Circuit says an
25 indictment is required to let the defendant know what he is

1 being charged with, and this indictment did just that. We 08:59AM
2 never hid the fact that our position was he was using all of 08:59AM
3 these companies as shell corporations. The Defendants filed, 08:59AM
4 by the way, motions to dismiss, starting in 2018 continuing 08:59AM
5 through 2020. Motions to suppress, again, starting in 2018 08:59AM
6 throughout 2020. They filed responses to motions that we 08:59AM
7 filed regarding the use of shell corporations to which this 08:59AM
8 Court has already ruled in ECF 1387. And we have another 08:59AM
9 motion pending that you have not ruled on yet regarding the 08:59AM
10 alter egos. 08:59AM

11 Our theory of our case, in both the indictment 08:59AM
12 and continuing throughout, has been the Defendant's use of all 08:59AM
13 of these corporate entities as shell companies, and we have 08:59AM
14 produced discovery to the Defendants and identified as 08:59AM
15 G-number exhibits in this case, numerous documents regarding 08:59AM
16 Pacific Spotters Corporation being one of the 47 shell 09:00AM
17 companies used in this case. To say that they had no notice 09:00AM
18 is just not supported by the record. It is not supported by 09:00AM
19 the record. 09:00AM

20 THE COURT: To say that they have no notice is 09:00AM
21 not supported, correct, by the filed record and by the 09:00AM
22 discovery -- 09:00AM

23 MS. M. MILLER: Yes. 09:00AM

24 THE COURT: -- but it is supported by the fact 09:00AM
25 that it's not in the indictment. 09:00AM

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1 MS. M. MILLER: None of the shell companies are 09:00AM
2 in the indictment, Your Honor. 09:00AM

3 THE COURT: I know, which I find amazing. I just 09:00AM
4 think it should be in there. Seriously. 09:00AM

5 MS. M. MILLER: Well, we could file a Bill of 09:00AM
6 Particulars right now. I mean, I think that we -- 09:00AM

7 THE COURT: You could try to file a Bill of 09:00AM
8 Particulars, but now they're going to say, okay, no, that's 09:00AM
9 unduly prejudicial to us right now in the middle of trial. 09:00AM

10 MS. M. MILLER: I guess the question becomes what 09:00AM
11 are we really here to do? 09:00AM

12 THE COURT: Well, he's arguing, and he has the 09:00AM
13 right to argue, look, we didn't have notice about Pacific 09:00AM
14 Spotters and whatever else, all the other corporations. But 09:00AM
15 right now the focus is Pacific Spotters. That's what his 09:00AM
16 argument is. 09:00AM

17 MS. M. MILLER: And what I'm saying, Your Honor, 09:00AM
18 is obviously they did. This has been litigated in front of 09:00AM
19 Judge Manibusan. This has been litigated in front of Judge 09:00AM
20 Bordallo. This was then litigated in front of you and, Your 09:01AM
21 Honor, the government has relied on your order, ECF 1387, 09:01AM
22 saying that the government has presented sufficient evidence 09:01AM
23 that shell corporations are in fact relevant to this case. 09:01AM

24 THE COURT: Well, they are relevant, but that's 09:01AM
25 not the issue they're arguing. But, anyway. 09:01AM

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1 MS. M. MILLER: No, I understand. And so here's 09:01AM
2 Ms. Miller. Thank you, Ms. Miller. 09:01AM

3 We argued also the point of what is an indictment 09:01AM
4 supposed to do? If we put every single allegation of how 09:01AM
5 Mr. Walker committed the fraud in the indictment instead of 09:01AM
6 having a 40-page indictment, we'd have a 150-page indictment. 09:01AM
7 And the Ninth Circuit has said that bills of particulars are 09:01AM
8 seldom employed in modern federal practice because an 09:01AM
9 indictment is sufficient to provide a temporal framework for 09:01AM
10 the crimes alleged because open-file discovery obviates the 09:01AM
11 need for greater specificity. This is the Ninth Circuit, this 09:01AM
12 is all circuits, not only the Ninth Circuit. 09:02AM

13 THE COURT: I know the law. 09:02AM

14 MS. M. MILLER: Because Counsel has no argument 09:02AM
15 against the admissibility of those two pages, instead the tact 09:02AM
16 is, let's say we have no notice. And, Your Honor, I will ask 09:02AM
17 this Court to look at the record as a whole because the 09:02AM
18 government is entitled to a fair trial, just like Jon Walker 09:02AM
19 is entitled to a fair trial. And if this Court does not allow 09:02AM
20 any evidence of a shell company that Mr. Walker clearly 09:02AM
21 created to use to continue this fraud, then there will be no 09:02AM
22 real justice done in this case. 09:02AM

23 THE COURT: Well -- 09:02AM

24 MS. M. MILLER: Ms. McConwell actually got up 09:02AM
25 here and said to Your Honor in her argument -- well, look -- 09:02AM

1 THE COURT: Counsel, you have one minute because
2 the jurors are ready.

3 MS. M. MILLER: Look at 2939, page 49, it says,
4 Hansen Helicopters, not Jon Walker, is the owner of Limey Air.
5 That's a total misrepresentation because on page 76, years
6 later, Jon Walker is representing, I, Jon Walker, am the 99.9%
7 owner of Limey Air. They're not saying they had no notice of
8 Limey Air. The argument here is that when Limey Air gets
9 \$5 million from Pacific Spotters Corporation and we have
10 evidence that Pacific Spotters Corporation is using the
11 identical aircraft that are in the indictment, and it is
12 during the period of time of the indictment, how is that not
13 relevant to be admitted? We're not going to ask the jury to
14 find --

15 THE COURT: Counsel, Counsel, you do not have to
16 -- it's not a relevance issue right now. It's not -- right
17 now.

18 MS. M. MILLER: But it is.

19 THE COURT: Well, it could be. But the point is,
20 the Court is going to -- I'll get back to you in ten minutes.

21 All the jurors ready to go?

22 All right, Counsels. Yes, Mr. McConwell?

23 MR. MCCONWELL: Can we go to the restroom first?

24 THE COURT: Yes. No -- we'll take a 15-minute
25 recess, and I'll come back. Thank you, Counsels.

1 (Recess taken at 9:04 a.m.) 09:04AM

2 (Back on the record at 9:24 a.m.) 09:24AM

3 THE COURT: All right. Please be seated. All 09:24AM

4 Counsel present, Defendants are present. 09:24AM

5 Yes, Mr. Martin? 09:24AM

6 MR. MARTIN: Your Honor, I provided to the 09:24AM

7 government and to Carmen the passport. I'd like to introduce 09:24AM

8 it as a sealed exhibit, if I could, and maybe give it an 09:24AM

9 exhibit number. The government has a copy of it. If that's 09:24AM

10 okay, we could. 09:24AM

11 THE COURT: All right. Carmen, what number can 09:24AM

12 this be? Defendant's Exhibit? 09:24AM

13 THE CLERK: 129, Your Honor. 09:24AM

14 THE COURT: Hold on. 09:24AM

15 MR. MARTIN: If it could be sealed, Your Honor? 09:24AM

16 THE COURT: Very well. It will be sealed. And 09:24AM

17 you gave a copy to the prosecution? 09:24AM

18 MR. MARTIN: Yes, Your Honor, I did. 09:24AM

19 THE COURT: All right. Exhibit 129. 09:24AM

20 All right. So over the break, I thought about 09:24AM

21 this issue, I want the parties to give me -- I don't want you 09:24AM

22 to give me a brief, I just want you to give me the Ninth 09:25AM

23 Circuit case law on this issue. Is discovery sufficient to 09:25AM

24 give a defendant notice? I've not heard this argument, to be 09:25AM

25 honest with you, in all my years about discovery and pleadings 09:25AM

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1 are sufficient to give a defendant notice of the charges 09:25AM
2 against him. I think there -- maybe Second Circuit may have 09:25AM
3 ruled on it, but I don't think the Ninth Circuit has, but I 09:25AM
4 may be wrong. And I'm going to check, but you guys will have 09:25AM
5 to find the case law. So just get me the case law on that, 09:25AM
6 and I would think that you want to wait until we finish this 09:25AM
7 issue, right? You want to get him out of -- 09:25AM

8 MS. M. MILLER: Yeah. We're done. This is the 09:25AM
9 last piece of his direct examination. So we're done. He can 09:25AM
10 go to cross now. We will get that case law to Your Honor. 09:25AM

11 THE COURT: All right. Do you want to -- Mr. 09:25AM
12 Martin and Ms. McConwell? 09:25AM

13 So you're done with him? 09:25AM

14 MS. M. MILLER: I'm done. 09:25AM

15 THE COURT: Did you say that already to the jury? 09:25AM

16 MS. M. MILLER: No, no, no. When the jury comes 09:25AM
17 back, I will let them know we're finished. 09:26AM

18 THE COURT: All right. Very well. 09:26AM

19 MS. M. MILLER: What I'll say, Your Honor, is 09:26AM
20 we're finished pending further ruling from the Court so that 09:26AM
21 if he is called back, it's not unusual. 09:26AM

22 THE COURT: Right. Okay. 09:26AM

23 Mr. Martin, Ms. McConwell, you ready to proceed 09:26AM
24 then on cross-examination of the witness pending this issue? 09:26AM

25 MR. MARTIN: So just so I understand, it's the 09:26AM

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1 intent then that with crossing, and then based on the Court's
2 ruling, he'll either be recalled or he won't be recalled?

3 THE COURT: Right. Right.

4 MR. MARTIN: I prefer to get it resolved, Your
5 Honor, but --

6 THE COURT: Well, can you get your cases in
7 20 minutes? Can you guys do it, like -- it shouldn't take --

8 MS. M. MILLER: I already have them. I could
9 just e-mail it to chambers.

10 THE COURT: You've got Ninth Circuit case law on
11 that?

12 MS. M. MILLER: I will tell you in one second,
13 Your Honor. I have case law on it.

14 THE COURT: I think there is District Court
15 cases, but I don't know about Ninth Circuit.

16 MR. MARTIN: The only concern I have, Your Honor,
17 is, as the Court is aware.

18 THE COURT: Yes.

19 MR. MARTIN: The discovery in this case is the
20 universe. It's not like it's, you know -- we've got 30 -- I
21 don't remember how many terabytes of data, it's a gazillion.

22 THE COURT: You said it was up to where the --

23 MR. MARTIN: The International Space Station.
24 And it's kind of -- that's the kind of cases I'm going to be
25 looking for. I don't know if I can do it in 20 minutes, but I

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1 can sure try, Judge.

2 THE COURT: Well, all right. Look, I think it's
3 just a pretty simple issue. Okay. We already know that a
4 defendant is entitled to notice of the charges against him in
5 an indictment. We know that.

6 The question is, and this is an interesting issue
7 because you have a defendant, Mr. Walker, who's being accused
8 of owning 99.9% -- 99% of Hansen Helicopters and has all of
9 these -- allegedly, I'm just saying allegedly, alter ego
10 corporations that he's working through, these shell
11 corporations, there is 47 of them, I guess. And the question
12 is not one of them are mentioned in the grand jury indictment.
13 There are three grand jury indictments in this case. We're
14 talking about right now. The Second Superseding Indictment.
15 And so is it sufficient notice to the defendant that the
16 charges against him, as it relates to the alter ego of the
17 corporations, with regard to who they are and what they are,
18 to be found in discovery. Whether it's 30 terabytes, I don't
19 know whatever you want to call it, to the international news
20 station, whatever you call it, you know. With regard to
21 discovery and with regard to pleadings, really, I've not heard
22 this argument. I'll be honest, all the years I've been a
23 judge, I've not heard this.

24 MR. MARTIN: Your Honor, let me be clear, there
25 are multiple corporations mentioned in the indictment.

1 THE COURT: Right.

09:28AM

2 MR. MARTIN: It's not like there are none. There
3 are multiple. I mean if you just go to page 13, there is --
4 page 14, I mean there is a bunch of them. So I mean...

09:28AM

09:28AM

09:29AM

5 THE COURT: Well, I know, but -- okay, so -- any
6 way, so you could make that argument.

09:29AM

09:29AM

7 MS. M. MILLER: Yes.

09:29AM

8 THE COURT: The point is -- the point is, the
9 shell corporations, that's it.

09:29AM

09:29AM

10 MS. M. MILLER: Yes, we will get you the case
11 law, Your Honor. And --

09:29AM

09:29AM

12 THE COURT: All I -- I don't want -- I don't need
13 you guys to do an analysis. I can look at the case law.

09:29AM

09:29AM

14 MS. M. MILLER: No. We're just -- we're just
15 going to get you the case law.

09:29AM

09:29AM

16 THE COURT: Prosecution will get theirs.
17 Defense, you can get yours. How much time do you need, it's
18 9:30?

09:29AM

09:29AM

09:29AM

19 MR. MARTIN: I mean... I didn't even look, Judge,
20 but I'll --

09:29AM

09:29AM

21 THE COURT: How much time? What do you think?
22 What's your feel? I don't think it should be that big of a --
23 honestly, I don't think it should be that difficult of a find,
24 but I don't know.

09:29AM

09:29AM

09:29AM

09:29AM

25 MR. MARTIN: I'll -- you tell me how much time I

09:29AM

1 have, Your Honor, I'll use it.

09:29AM

2 MS. MCCONWELL: Maybe an hour? Could we check
3 back in an hour.

09:29AM

09:29AM

4 THE COURT: Okay. You're going to just do it
5 from here?

09:29AM

09:29AM

6 MR. MARTIN: Yeah. We'll just go back there.

09:29AM

7 THE COURT: Okay. I'll give you an hour. The
8 prosecutor -- might be faster if the prosecutor gives you

09:29AM

09:29AM

9 their cases since they already have it, and if she wants to

09:30AM

10 give it to you now, would be better. Give it to me and the --

09:30AM

11 give it to me too so I could look at it. We already have been

09:30AM

12 looking at some cases anyway.

09:30AM

13 MS. M. MILLER: Yes.

09:30AM

14 THE COURT: But why don't we look at that. And
15 then I'll give you an hour. And if it's earlier than an hour,
16 let me know because the jurors are waiting.

09:30AM

09:30AM

09:30AM

17 Just tell the jurors we're still working on legal
18 issues. Okay. Thank you.

09:30AM

09:30AM

19 And they're all here. By the way, all the jurors
20 are here. They all came in on time, by 9:00 a.m., number one.

09:30AM

09:30AM

21 Well on time for today. Number two, there is one juror, as

09:30AM

22 you might recall, whose wife is ready to give birth any

09:30AM

23 minute, so just FYI. He might be called out, but just FYI.

09:30AM

24 Another juror just wanted to give us notice that they have a

09:30AM

25 family member that's really sick, but they're just on call,

09:30AM

1 but they're here. All right.

09:30AM

2 MS. M. MILLER: And the only other thing I want
3 to bring to the Court's --

09:30AM

09:30AM

4 THE COURT: Can you get on the mic there, Ms.
5 Miller?

09:30AM

09:30AM

6 MS. M. MILLER: I'm sorry. I put my mic on, Your
7 Honor.

09:30AM

09:30AM

8 THE COURT: Go ahead.

09:30AM

9 MS. M. MILLER: So Mr. Martin represented to the
10 Court that Mr. Walker's passport showed no travel to the
11 Philippines after 2016, but I'm looking at the copy of it and
12 there is a stamp for the Philippines in November of 2018. So
13 I'm curious about -- I'm unsure of that representation versus
14 what I'm seeing here.

09:30AM

09:31AM

09:31AM

09:31AM

09:31AM

09:31AM

15 THE COURT: All right. So why -- you know what
16 they could flush that out. They'll have to flush that out. I
17 mean if -- (Pause.) Sometimes too, I'm not sure, you know,
18 Ms. Miller, I know that sometimes you have to look at it
19 carefully. If the stamps are -- come together, sometimes they
20 get --

09:31AM

09:31AM

09:31AM

09:31AM

09:31AM

09:31AM

21 MS. M. MILLER: It's pretty clear.

09:31AM

22 THE COURT: Okay. So if it's clear then -- okay.
23 I notice on some of my stamping, they put one on top of the
24 other.

09:31AM

09:31AM

09:31AM

25 MS. M. MILLER: Says November 15th, 2018 on it.

09:31AM

1 MS. MCCONWELL: Let's take our break and work on
2 what our issue is that the Court --

3 MR. MARTIN: Two years. That's a run, Marie.

4 MS. M. MILLER: Excuse me?

5 MR. MARTIN: Does not mean he was in the
6 Philippines two years ago.

7 MS. M. MILLER: So are you saying now that -- you
8 represented to this Court that the last stamp was from --

9 MR. MARTIN: No. What I'm saying is there is a
10 run.

11 MS. M. MILLER: -- 2016.

12 MR. MARTIN: It's a run. It's 2016. If you'll
13 look at it.

14 THE COURT: Okay. Well, you guys can argue that
15 later because that's not before me. And I'm focusing on the
16 indictment. It's 9:32. I'll see all of you at 10:32. Unless
17 you find the cases earlier, which I'm probably sure you will
18 be able to find it.

19 MS. MCCONWELL: They're going to e-mail it to us.

20 MS. M. MILLER: Yeah. We have a case right here,
21 Your Honor, so we'll send to you.

22 THE COURT: Just one case.

23 MS. M. MILLER: Well, there are many, but you
24 wanted Ninth Circuit and you wanted on point so we'll --

25 THE COURT: And there is a Ninth Circuit Court of

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1 Appeals case. Okay. Good to know. 09:32AM

2 MS. M. MILLER: Yes. And it's citing a second 09:32AM
3 one. 09:32AM

4 THE COURT: It's not a District Court case, it's 09:32AM
5 a Ninth Circuit Court of Appeals case? 09:32AM

6 MS. M. MILLER: Both. Ninth Circuit citing 09:32AM
7 another Ninth Circuit. We will send it to chambers -- 09:32AM

8 THE COURT: Yeah. Send to it chambers and to 09:32AM
9 Counsels. Thank you, Counsel. 09:32AM

10 MS. M. MILLER: Thank you, Your Honor. 09:32AM

11 THE COURT: Okay. We'll see you in an hour. 09:32AM
12 Longest witness ever. 09:32AM

13 (Recess taken at 9:33 a.m.) 09:33AM

14 (Back on the record at 10:30 a.m.) 10:30AM

15 (Pause.) 10:30AM

16 THE COURT: Did you guys send me something, 10:31AM
17 Defense? 10:31AM

18 MR. MARTIN: We didn't, Your Honor. I didn't 10:31AM
19 find anything specific on the issue you raised about discovery 10:31AM
20 expand -- 10:31AM

21 THE COURT: Okay. You ready to go? Okay. Let's 10:31AM
22 go. We'll call the case up then. Okay. Or I'll just call -- 10:31AM
23 let me know. We're outside the presence of the jury and we 10:31AM
24 took a 30-minute, or no -- hour recess, right? Was it an 10:31AM
25 hour? It was an hour recess. So the Court is in receipt of 10:31AM

1 an e-mail from Samantha Miller to Carmen Santos, my clerk, and 10:31AM
2 to the defense Counsels and then -- so one page e-mail and 10:31AM
3 then the notice of an unpublished, I'm sorry, unpublished 10:31AM
4 opinion. *United States versus Vera*, 894 F.2d 410, 1990 -- 10:31AM
5 hold on one second. All right. So the Court is in receipt of 10:31AM
6 the case from United States of America. And then defense 10:32AM
7 Counsel, on the record, did you guys submit anything to the 10:32AM
8 Court? 10:32AM

9 Mr. Martin, I'm sorry, just to place it on the 10:32AM
10 record? 10:32AM

11 MR. MARTIN: No, Your Honor. I did not. I did 10:32AM
12 not find anything on point to the issue that you cited to us, 10:32AM
13 nor did I find that the government's case was on point to the 10:32AM
14 issue it was directed to. 10:32AM

15 THE COURT: So I've already read the government's 10:32AM
16 case. So let's hear from you why the government's case should 10:32AM
17 not be considered by this Court. Mr. Martin. 10:32AM

18 MR. MARTIN: Sorry, Your Honor. 10:32AM

19 THE COURT: That's okay. 10:32AM

20 MR. MARTIN: And if I might, Judge. Which I got 10:32AM
21 it here, I'm trying to remember which case it was. 10:32AM

22 THE COURT: Okay. *United States of America* 10:32AM
23 *versus Vera*; Johnny Vera 894 F.2d 410. 894 F.2d 410, 1990. 10:32AM

24 MR. MCCONWELL: Is that a memorandum or a order? 10:33AM

25 THE COURT: This was an unpublished decision. 10:33AM

1 MS. M. MILLER: Citing a published Ninth Circuit
2 decision, Your Honor. *U.S. v. Long*.

3 MS. MCCONWELL: *U.S. v. Long* only has to do with
4 a denial of the request for Bill of Particulars. It's not on
5 point.

6 THE COURT: Okay. Well, let me just hear the
7 arguments then. Okay. Did you find the case, Mr. Martin and
8 Ms. McConwell? Did you find the prosecutor's case?

9 MR. MARTIN: Ms. McConwell is going to argue it,
10 Your Honor. I was looking at another one.

11 THE COURT: Oh, okay. All right.

12 MS. MCCONWELL: So, Your Honor, first of all,
13 this is a non-published opinion. So it's not -- I don't think
14 -- it does not have precedence for this Court -- for this
15 Court to rule upon that. The Ninth Circuit case, which is the
16 *U.S. v. Long* that the United States also provided, dealt with
17 a Bill of Particulars issue and an indictment. Each time, the
18 only thing that was complained of was the sufficiency and the
19 specific counts that were contained in the indictment that
20 they weren't -- that they didn't give notice. None of these
21 cases are for the case on point which is expanding the actual
22 indictment to include additional party defendants or -- or try
23 to shoehorn defendants -- other entities into an indictment.

24 In our indictment, the paragraphs that
25 Ms. Miller, I mean, Ms. Marie Miller had cited to, which was

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1 127, does not give -- does not give any of the Defendants 10:35AM
2 either I guess, Mr. Walker or Hansen Helicopters, and Hansen 10:35AM
3 Helicopters isn't in this; it identifies specifically using 10:35AM
4 Caledonian Agency, Bank of Hawaii and Hansen Northern 10:35AM
5 Helicopters. And in those specific bank accounts, it doesn't 10:35AM
6 give us any type of a notice that Pacific Spotters is somehow 10:35AM
7 going to be -- attempted to be dovetailed into -- into this 10:35AM
8 action. 10:35AM

9 We are actually in the third to the last witness. 10:35AM
10 We've been in trial since March. And at no point has this -- 10:35AM
11 has the government raised this issue that they want to include 10:36AM
12 a Philippine corporation that the United States government has 10:36AM
13 no jurisdiction over or Philippine-registered aircraft into a 10:36AM
14 criminal trial in the United States. 10:36AM

15 So the case that they provided is -- is -- what 10:36AM
16 he's trying to -- what this defendant was trying to do was 10:36AM
17 have his conviction set aside because he didn't -- he didn't 10:36AM
18 have adequate -- because he didn't have adequate notice or due 10:36AM
19 process. And I believe in this *Vera*, it was a very limited 10:36AM
20 indictment. It wasn't -- it was a drug -- he was -- it was a 10:36AM
21 drug charge, whether he knowingly and intentionally possessed 10:36AM
22 or to distribute cocaine. 10:36AM

23 THE COURT: Well, I mean I think it was more the 10:36AM
24 amount, whether it was approximately -- approximately five 10:36AM
25 kilograms of cocaine versus the statutory requirement that it 10:37AM

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1 be five grams.

10:37AM

2 MS. MCCONWELL: Five grams. Right.

10:37AM

3 THE COURT: Five kilograms or more.

10:37AM

4 MS. MCCONWELL: So at least he knew he was

10:37AM

5 dealing with a drug, cocaine. This is a completely different

10:37AM

6 entity being -- trying to be shoehorned into a -- how many --

10:37AM

7 or indictment is -- and it's the third one... 47 pages long,

10:37AM

8 110 counts. And as you see in your Exhibit 3003, it's -- you

10:37AM

9 know, a corporation that is incorporated in the Philippines,

10:37AM

10 and they're attempting to say because Mr. Walker has an

10:37AM

11 ownership interest, somehow that should put everybody on

10:37AM

12 notice that that -- that that lawful corporation should be

10:37AM

13 brought into this Court in this criminal trial. And I just

10:37AM

14 think should fail, and particularly, since it's trying to be

10:38AM

15 brought in on the third day of the third to the last witness

10:38AM

16 testimony in the trial. If this was an issue, if this was

10:38AM

17 something that the government thought was part of this

10:38AM

18 indictment, we should have been hearing about this at the very

10:38AM

19 beginning of trial, which we have not. We did not.

10:38AM

20 THE COURT: Okay. Yes, Mr. Martin?

10:38AM

21 MR. MARTIN: Your Honor, pardon me. This case

10:38AM

22 that the government cites -- and I apologize for not being

10:38AM

23 fully prepared when we first walked in. I was trying to find

10:38AM

24 some cases that were on point to what you submitted to us and

10:38AM

25 I hadn't read all of this, but this case is a -- more than an

10:38AM

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1 issue related to the indictment. It's a sentencing issue. It 10:38AM
2 talks about, you know, does it meet a -- is the sentence ten 10:38AM
3 to life versus what other sentence it might be. And the 10:38AM
4 defendant in that case alleged he did not have sufficient 10:38AM
5 notice. 10:39AM

6 This -- the case we have, Your Honor, the issue 10:39AM
7 that you ask is, are we informed that -- through an indictment 10:39AM
8 -- can an indictment basically be broadened by discovery so 10:39AM
9 that we are informed of everything? I don't necessarily think 10:39AM
10 this case touches that. And the reason I say that is this, 10:39AM
11 this is a one-count indictment that this gentleman plead to, 10:39AM
12 Mr. Vera, I'm assuming it's Mr. Vera, pled to. We're dealing 10:39AM
13 with 110 counts. We're dealing with tons and tons of 10:39AM
14 discovery in this case. Much of which we are -- as the Court 10:39AM
15 is aware, we have been getting, during this trial, exhibits, 10:39AM
16 which I consider to be discovery in this case. And I submit 10:39AM
17 that although Vera is instructive, it's not necessarily 10:39AM
18 controlling and that it would be more prudent at this point, 10:39AM
19 this far along in the trial, for us to stay on scope, on focus 10:39AM
20 as to where we have been up until today. Because virtually, 10:40AM
21 we're at the point where the government is trying to 10:40AM
22 completely change the theory of the case in their third from 10:40AM
23 last witness and bring in new things that we have to defend 10:40AM
24 against. And I don't think it's appropriate. And I don't 10:40AM
25 think this case addresses the specific point that the Court 10:40AM

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1 asked us to address.

2 THE COURT: Are you -- I'm sorry. So I heard Ms.
3 McConwell say that she felt that the Second Superseding
4 Indictment in this case, she didn't use the word "reform" but
5 she's saying adding on a -- other defendants in this case,
6 including Pacific Spotters.

7 MR. MARTIN: Yes, Your Honor, it included -- when
8 we first got this case in May of 2018, there were four
9 defendants: Jon Walker, Rufus Crowe, Turner Kapp and Marvin
10 Reed. There was a second -- there was a superseding
11 indictment, which included Hansen Helicopters, and I believe
12 Randall Rogers. Then there was the Second Superseding
13 Indictment which added the Frank Litkei and Spares, Inc. So
14 we've gone through -- and we went from -- and I may be wrong
15 on my numbers, but we went from 18 counts, or somewhere in
16 that neighborhood, to 70 or 80 counts, to 110 counts is what's
17 alleged in this indictment, Your Honor. So each indictment
18 expanded and expanded and expanded. If that was the question
19 you asked me?

20 THE COURT: Okay. Yes?

21 MS. MCCONWELL: Well, and, Your Honor, also the
22 witness that is on the stand right now is on the stand for
23 only the wire fraud and the money laundering counts. And so
24 it's also not clear on them trying to reform the indictment
25 that -- I mean, I assume it's only relevant to if -- it would

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1 only be relevant to these Counts 100 through 110, but I would
2 submit I don't think they've given notice. I don't think it's
3 patently fair to the Defendants to change it this late in the
4 game.

5 THE COURT: Okay. Anything else, Counsels?

6 MR. MARTIN: No, Your Honor.

7 THE COURT: Hold on one second before I hear from
8 -- let me check my notes. Ms. Marie Miller, are you going to
9 argue this?

10 MS. M. MILLER: Yes, Your Honor, I am.

11 THE COURT: Okay. You may proceed.

12 MS. M. MILLER: The whole point of a superseding
13 indictment, Your Honor, is to add additional charges or
14 additional defendants if evidence comes to the attention of
15 the government that additional crimes are being committed.

16 To correct Ms. McConwell, we are absolutely not
17 adding Pacific Spotters Corporation to the indictment. We're
18 not charging Pacific Spotters Corporation. We've charged Jon
19 Walker. Also, Your Honor --

20 THE COURT: Okay. Hold on, hold on. So let me
21 just think about that. Are you not incorporating by reference
22 Pacific Spotters into the shell corporations that are being
23 alleged in the indictment?

24 MS. M. MILLER: It is one of many shell
25 corporations that Jon Walker used, yes. However --

1 THE COURT: Okay.

10:43AM

2 MS. M. MILLER: -- even though Ms. McConwell is
3 saying, well, wait a minute, what does that have to do with
4 the wire fraud charges? It has everything to do with the wire
5 fraud charges. She keeps ignoring Count 99 of the Second
6 Superseding Indictment which is the conspiracy to commit wire
7 fraud. And where we incorporated in all of our allegations
8 that preceded that. What's important about that count, Your
9 Honor, and what's important about this piece of evidence is we
10 have evidence that Pacific Spotters Corporation wired funds
11 from its continued lease of the helicopters to Limey Air, Inc.
12 That's the evidence that is subject of this motion.

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13 Ms. McConwell also said we haven't heard about it
14 in this case until this point. That's not true. We talked
15 about it in opening, Ms. Jones testified specifically about
16 Pacific Spotters, Mr. Marinho testified specifically about
17 Pacific Spotters. And by the way, to remind the Court,
18 Mr. Marinho's testimony wasn't live. It was a deposition that
19 was taken years ago, and where that issue about Pacific
20 Spotters being used in the fraud was flagged by the government
21 for the Defendants during the course of that deposition.

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22 We introduced a number of exhibits that pertained
23 directly to Pacific Spotters: Exhibit 2939, Exhibit 3047,
24 Exhibit 829, Exhibit 3003, Exhibit 775, Exhibit 770,
25 Exhibit 771, 2900, 2990. ECFs that we've asked this Court to

10:44AM

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10:44AM

1 take judicial notice of.

2 I think the other thing that's critical for the
3 Court to note is that these helicopters were sold to specific
4 -- Pacific Spotters by Jon Walker who signed off on it. And,
5 Your Honor, those helicopters, when they were sold to Pacific
6 Spotters, had been registered under the name of Bean Bag,
7 which you've heard, which the Defendants are not contending
8 they had no notice of; O'Hara, which you've heard that name,
9 the Defendants are not contending they had no notice of; of
10 Hansen Northern, which you've heard, the Defendants aren't
11 contending they had no notice of; of Whirlwide and of
12 Helifish. Those were the registered --

13 THE COURT: I'm sorry. They are not -- let's --
14 they're not at least -- they have not complained about that,
15 that's right.

16 MS. M. MILLER: No, they have not.

17 THE COURT: As of right now, we're only focusing
18 though on Pacific Spotters because of the witnesses on the
19 stand.

20 MS. M. MILLER: But Pacific Spotters bought those
21 helicopters. Jon Walker sold his own helicopters to Pacific
22 Spotters from the shell companies that have been identified to
23 Pacific Spotters after the first indictment --

24 THE COURT: Listen.

25 MS. M. MILLER: -- to conceal --

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1 THE COURT: Okay. The theory of your case is all 10:46AM
2 well and good, we've got that down, you got it down. The 10:46AM
3 question is notice. 10:46AM

4 MS. M. MILLER: So let's -- 10:46AM

5 THE COURT: I guess my question to you is -- 10:46AM

6 MS. M. MILLER: Yes. 10:46AM

7 THE COURT: -- what about allowing amendment of 10:46AM
8 the indictment? If it would not prejudice the Defendant, the 10:46AM
9 Court could allow it. Should I do that? Allow amendment of 10:46AM
10 the indictment? I know they're going to just jump up and go 10:46AM
11 crazy. 10:46AM

12 MS. M. MILLER: Your Honor, I would argue this is 10:46AM
13 not an amendment of the indictment, and that's why we cited 10:46AM
14 this case law to you. 10:46AM

15 THE COURT: I think this case is weak, I'll be 10:46AM
16 honest with you. I looked at this case carefully. This is a 10:46AM
17 one-count indictment. This has to do with a guilty plea, and 10:46AM
18 this is really an issue of does the defendant have notice that 10:46AM
19 he's going to receive a more severe sentence because the 10:46AM
20 indictment says approximately five kilograms, whereas the 10:47AM
21 statute says five kilograms or more. I mean it's pretty 10:47AM
22 simple. I've done hundreds of sentencings. So I mean this is 10:47AM
23 like kind of a weak -- I mean this particular case is a weak 10:47AM
24 case for your citation. And then the judge -- I'm looking at 10:47AM
25 how this was written by the appellate court, and where they 10:47AM

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1 talk about --

10:47AM

2 MS. M. MILLER: In *Long*.

10:47AM

3 THE COURT: They look at the District Court's
4 colloquy and where the District Court judge, before the plea
5 of guilty to that count, specifically informed the defendant
6 of the penalties, the maximum penalties. The defendant says
7 I'm going to show you that it doesn't apply, and in fact, with
8 regard to the weight of the cocaine, the prosecution and the
9 defense both had expert witnesses to say how much was that
10 cocaine weighing.

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10:47AM

11 So, I mean, I think that clearly this case is
12 strong in terms of -- strong in terms of for that case, but I
13 just don't see it. I'm more concerned about this case, where
14 you have a 100-count indictment and I still don't -- I guess I
15 still don't understand why the prosecution, anybody in the
16 prosecutor's office, they just didn't put in the names of the
17 corporations. You guys knew it. You guys knew that Pacific
18 Spotters -- I mean, you may not want to admit there was -- I
19 don't know, whatever -- I've just not seen this in court,
20 like, you guys knew that after the first indictment, as I
21 recall, and correct me if I'm wrong, that you allege that
22 Mr. Walker or somebody went ahead and -- yeah, Walker, they
23 opened up an account to get moneys, that's after the first
24 indictment. Well, then fast-forward to the Second Superseding
25 Indictment, I mean, I just -- I just --

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1 MS. M. MILLER: Your Honor, first of all -- 10:48AM

2 THE COURT: You guys knew that. 10:48AM

3 MS. M. MILLER: Your Honor. 10:48AM

4 THE COURT: I just don't understand why it's not 10:48AM
5 in there. It's not that big of a deal to stick it in there. 10:48AM

6 MS. M. MILLER: And it's also -- if the 10:48AM
7 Defendants wanted to know all of the shell companies that the 10:48AM
8 government is contending were used by Jon Walker for this 10:48AM
9 fraud, the Defendants could have filed a Bill of Particulars. 10:48AM
10 And Your Honor knows that they did in fact file motions for 10:49AM
11 bills of particulars pertaining to counts that they had 10:49AM
12 questions about. We have alleged and have continued to allege 10:49AM
13 in the Second Superseding Indictment -- 10:49AM

14 THE COURT: I don't think we -- I don't think we 10:49AM
15 disagree with that. I think everybody agrees that they could 10:49AM
16 have done it. They didn't do it. As I recall, somebody 10:49AM
17 correct me if I'm wrong, with regard to the record, the 10:49AM
18 defense did not file a motion for Bill of Particulars as it 10:49AM
19 relates to the names -- 10:49AM

20 MS. M. MILLER: Correct. 10:49AM

21 THE COURT: -- and addresses of any alleged shell 10:49AM
22 corporations. 10:49AM

23 MS. M. MILLER: Correct. They did not because 10:49AM
24 they knew. 10:49AM

25 THE COURT: Okay. You could say that. 10:49AM

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1 MS. M. MILLER: This is an issue of notice, but 10:49AM
2 what's really, really important here is that we go beyond the 10:49AM
3 external and we go to what's really happening here. There is 10:49AM
4 no question that the Defendants were aware that Jon Walker was 10:49AM
5 going to now use Pacific.Spotters Corporation to continue the 10:49AM
6 fraud. There was always a question, and Your Honor is saying, 10:49AM
7 well, the -- the government you knew -- we didn't know in 10:49AM
8 2018. In 2018 -- 10:50AM

9 THE COURT: But you guys knew it. No, but you 10:50AM
10 knew the corporations. Is it not true -- 10:50AM

11 MS. M. MILLER: We didn't -- 10:50AM

12 THE COURT: You guys correct me if I'm wrong, but 10:50AM
13 -- 10:50AM

14 MS. M. MILLER: Yes. 10:50AM

15 THE COURT: -- did the prosecution not know of 10:50AM
16 the 47, 48, whatever shell corporation names by the time the 10:50AM
17 Second Superseding Indictment was brought to the grand jury? 10:50AM

18 MS. M. MILLER: We knew those -- yes, that are on 10:50AM
19 829. 10:50AM

20 THE COURT: And it's actually 48. There's 47 10:50AM
21 there plus Pacific Spotters is 48. 10:50AM

22 MS. M. MILLER: But we did not know Pacific 10:50AM
23 Spotters was being used the way it was because I want to bring 10:50AM
24 this Court's attention to Judge Manibusan's order at 238. 10:50AM
25 That was in 2019, Your Honor. And the Defendants, as a matter 10:50AM

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1 of fact, Mr. Kapp was saying to Judge Manibusan that there was 10:50AM
2 a de minimus relationship between Pacific Spotters and Hansen 10:50AM
3 Helicopters. It wasn't until after the Second Superseding 10:50AM
4 Indictment that we learned that all they did was completely 10:51AM
5 move the business over there. It was after. You've seen the 10:51AM
6 dates on the records that we received from the Philippines, 10:51AM
7 every single one of those dates is after the Second 10:51AM
8 Superseding Indictment, not before. 10:51AM

9 And you also saw the representations made by 10:51AM
10 defense Counsel in seeking to get travel to the Philippines. 10:51AM
11 Jon Walker never sought to obtain travel to the Philippines, 10:51AM
12 yet when we got the documents showing the creation of Pacific 10:51AM
13 Spotters, that's when we saw that Jon Walker had his passport 10:51AM
14 as an identifier for him to have his signature notarized in 10:51AM
15 the creation of Pacific Spotters and also in the creation of 10:51AM
16 the bank account. 10:51AM

17 Limey Air, which is the bank account at issue 10:51AM
18 here, and I want to get two pages into evidence from that bank 10:51AM
19 account, those two pages show that Limey Air received 10:52AM
20 \$5 million from Pacific Spotters in -- 10:52AM

21 THE COURT: All right. So Ms. -- okay. You 10:52AM
22 don't have to go -- listen, please, I don't need to hear the 10:52AM
23 evidence. I know -- I think I know the evidence pretty well. 10:52AM
24 I'm pretty -- I'm a quick study on this. 10:52AM

25 MS. M. MILLER: Yes. 10:52AM

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1 THE COURT: So you guys don't have to go through 10:52AM
2 the evidence. The only issue before this Court is this case 10:52AM
3 that you cite -- 10:52AM

4 MS. M. MILLER: Yes. 10:52AM

5 THE COURT: -- enough for me to agree with you? 10:52AM
6 That's it. Is that -- that -- so I just -- I say that to you, 10:52AM
7 I read this -- okay, maybe there is a stronger case because 10:52AM
8 this is -- it's different, I mean, you know, this case has 10:52AM
9 gotten more longevity, and we are talking about shell 10:52AM
10 corporations. You're saying Jon Walker is Hansen Helicopters, 10:52AM
11 is spotty -- so forth, so on and 47 others. He is all that in 10:52AM
12 one. 10:52AM

13 MS. M. MILLER: Yes. 10:52AM

14 THE COURT: Yeah. And I just don't -- I guess 10:52AM
15 you're just not giving me an answer as to why any prosecutor 10:52AM
16 just didn't put in there. Why not? 10:53AM

17 MS. M. MILLER: We would have had to supersede a 10:53AM
18 third time to put all the shell corporations in. 10:53AM

19 THE COURT: You could have done it by the first 10:53AM
20 one or the second one. 10:53AM

21 MS. M. MILLER: We couldn't have done it by the 10:53AM
22 first one. The first one -- 10:53AM

23 THE COURT: Well, how about by the second one? 10:53AM

24 MS. M. MILLER: We couldn't have done it by the 10:53AM
25 second one, Your Honor. 10:53AM

1 THE COURT: You couldn't have put 47 in? 10:53AM

2 MS. M. MILLER: No. Your Honor, we could not 10:53AM
3 have done it by the second one because we were still -- 10:53AM

4 THE COURT: Investigating? 10:53AM

5 MS. M. MILLER: -- getting information about the 10:53AM
6 -- we filed an MLAT with the Philippine authorities to get 10:53AM
7 information from them. 10:53AM

8 THE COURT: Okay. But here's the deal, I totally 10:53AM
9 understand that, you guys were still investigating this case. 10:53AM

10 MS. M. MILLER: Yes. 10:53AM

11 THE COURT: As you were -- 10:53AM

12 MS. M. MILLER: Yes. 10:53AM

13 THE COURT: As you were going into the grand jury 10:53AM
14 -- 10:53AM

15 MS. M. MILLER: Yes. 10:53AM

16 THE COURT: -- the investigation was not 10:53AM
17 complete. And that's part of your theory that you feel the 10:53AM
18 conspiracy was still ongoing. 10:53AM

19 MS. M. MILLER: Which is why we had that 10:53AM
20 allegation in the Second Superseding Indictment. 10:53AM

21 THE COURT: I understand that, but my point is 10:53AM
22 that, here we are -- I mean, that is -- that is kind of -- 10:53AM
23 that is the problem with notice. I mean, because you're still 10:53AM
24 -- even as right now as we're at trial, the balls are 10:53AM
25 juggling, you're saying to me, Judge, we believe that there's 10:53AM

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1 still deaths occurring, alleged deaths occurring. We still
2 believe there is some stuff going on that shouldn't be going
3 on with the Defendants or Defendant. And so that's still
4 going to be maybe an additional charge, additional indictment.

5 MS. M. MILLER: Mm-hmm.

6 THE COURT: Or --

7 MS. M. MILLER: But not Pacific Spotters. We,
8 Your Honor --

9 THE COURT: But I'm just saying that even as we
10 are in trial and even as have you gone through the grand jury
11 indictment, the original grand jury indictment to the third
12 grand jury indictment to today's trial, right before the end
13 of the prosecution's case in chief, this case is still
14 developing as we speak.

15 MS. M. MILLER: Because the Defendants are
16 continuing the fraud. I am not sure what we can do, Your
17 Honor, other than what we have done.

18 THE COURT: Let me just say this, because I'm not
19 the one that did bail detention hearings.

20 MS. M. MILLER: Yes.

21 THE COURT: I don't know and I'm not going to
22 criticize any of my judges --

23 MS. M. MILLER: Yes.

24 THE COURT: -- before me. But there is always a
25 way that certain activities could be banned, prohibited --

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1 MS. M. MILLER: Yes.

10:54AM

2 THE COURT: -- if it's part of criminal

10:54AM

3 conduct --

10:55AM

4 MS. M. MILLER: Yes.

10:55AM

5 THE COURT: -- related to the indictment.

10:55AM

6 MS. M. MILLER: Yes.

10:55AM

7 THE COURT: But obviously, either you tried and

10:55AM

8 you were unsuccessful or whatever it may have been. That's

10:55AM

9 what's happened. So I'm not even going to say I think you're

10:55AM

10 right or you're correct in any culpability by the Defendants

10:55AM

11 because I don't know.

10:55AM

12 MS. M. MILLER: Right.

10:55AM

13 THE COURT: You know everything is a clean slate

10:55AM

14 to me here. But my point is, that is always a danger of --

10:55AM

15 I've been a prosecutor too for ten years before I became a

10:55AM

16 judge. So we're talking 40 years of experience on this bench,

10:55AM

17 and I'm saying this only because when I evaluate the case and,

10:55AM

18 I mean, I'm listening to all of you -- you're a good

10:55AM

19 prosecutor, Ms. Miller, really you are. I'm just baffled by

10:55AM

20 why the hell -- I must say that, I just don't understand,

10:55AM

21 really why it wasn't even -- why it wasn't put in the

10:55AM

22 indictment, and let's assume you couldn't put it in the

10:55AM

23 indictment, I mean, this is a good motion, this is a valid

10:55AM

24 motion for the defense to bring up. Question is whether they

10:55AM

25 win or not is a different story, but I'm just saying that had

10:56AM

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1 even the prosecutor said -- submitted, and I don't know, maybe 10:56AM
2 you did, tell me if I'm wrong, I've read a lot of things in 10:56AM
3 this case. You can see my staff and I have been working our 10:56AM
4 overtime to get all my orders out too. That was there 10:56AM
5 anything, any addendum to say, hey, by the way, when we say 10:56AM
6 shell corporation as to this, you know, this is what we mean? 10:56AM

7 MS. M. MILLER: In Mr. Marinho's deposition, Your 10:56AM
8 Honor, when Pacific Spotters Corporation was identified as the 10:56AM
9 company that paid Mr. Marinho -- 10:56AM

10 THE COURT: Yup. 10:56AM

11 MS. M. MILLER: -- his payment, even though he 10:56AM
12 was hired by Hansen Helicopters, and he was put on a boat 10:56AM
13 through a company called Alpha Air, at that point, the 10:56AM
14 government maintained that Pacific Spotters was another entity 10:56AM
15 of Hansen. And at that point, the question was asked of 10:56AM
16 Mr. Marinho in his deposition, "Do you know who Pacific 10:57AM
17 Spotters was?" And I don't know if you recall this or not, 10:57AM
18 but he said, he asked Diane Keller, who was an employee of 10:57AM
19 Hansen Helicopters, "Who is Pacific Spotters? The bank 10:57AM
20 stopped my payment because I gave them a contract with Hansen 10:57AM
21 and Alpha Air and now I get a check from Pacific Spotters." 10:57AM
22 And Diane Keller on behalf of Hansen, an agent of Hansen, 10:57AM
23 said, "Pacific Spotters is just another Hansen entity." 10:57AM

24 The defense Counsel said to Judge Manibusan that 10:57AM
25 Pacific Spotters was another Hansen entity. This occurred 10:57AM

Direct - Khamvongsa

1 after the Second Superseding Indictment, and we did not get 10:57AM
2 all of records from the Philippines pursuant to the MLAT until 10:57AM
3 before trial. That's why they're marked 3003, because we 10:57AM
4 didn't even have them at the time that we did our first 10:57AM
5 exhibit list. 10:57AM

6 And, Your Honor, Limey Air, which is the bank 10:57AM
7 account that that \$5 million was wire transferred into, has 10:58AM
8 always been -- the defense is not saying, well, we didn't know 10:58AM
9 about Limey Air. It's always been a part and parcel of this 10:58AM
10 case. In their own filings -- 10:58AM

11 THE COURT: If I could just say -- 10:58AM

12 MS. M. MILLER: -- which -- referring to this. 10:58AM

13 THE COURT: Okay, I know you -- listen, again. 10:58AM

14 MS. M. MILLER: Your Honor, if you're not going 10:58AM
15 allow it in -- 10:58AM

16 THE COURT: No, no, no. That's not the issue. 10:58AM
17 I'm trying to understand this. What I'm telling you is, as I 10:58AM
18 listen to this, the question is, did the indictment give the 10:58AM
19 Defendant notice of the alleged facts and of the prosecution's 10:58AM
20 basic legal theory? I'm talking about the four corners of the 10:58AM
21 indictment. 10:58AM

22 MS. M. MILLER: Yes. 10:58AM

23 THE COURT: The -- okay, you're arguing that. 10:58AM

24 MS. M. MILLER: Our position is yes. 10:58AM

25 THE COURT: I got your position. But you're 10:58AM

1 citing me to go outside the indictment. That's what you're
2 telling me to do. You're citing this case.

3 MS. M. MILLER: No.

4 THE COURT: Oh, this is outside of the
5 indictment.

6 MS. M. MILLER: Paragraph 47 and paragraph 127 of
7 the indictment both identify the use of shell companies,
8 plural, in the fraud.

9 THE COURT: Right, you -- okay. And that's true,
10 but my point is, I really feel that that -- for you to say,
11 look, it's in the deposition with Marinho who, by the way, can
12 barely speak English, and we've had to go through
13 interpretations, and I listened to him, and I -- we had him on
14 the video or whatever it was. We had to get Counsel in, as I
15 recall, Razzano, Lujan, blah-blah-blah. And so, I mean, is
16 that -- and not even knowing at that point, because I don't
17 even know whether or not -- no, I had not even reviewed yet
18 his deposition -- I don't think I had ruled on his deposition
19 testimony, what was going to be in or out. And so that whole
20 issue of notice again, I mean, that's just another issue that
21 makes it more complex. And I got to just tell you honestly,
22 I've never seen this in all my years. I have not. You know,
23 47, 48 shell corporations is a lot.

24 MS. M. MILLER: It is.

25 THE COURT: If it was -- yeah, I mean, and I just

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1 think that this case is -- is not the strongest. It's 11:00AM
2 probably -- I think it's a weak case for you to cite to me. 11:00AM

3 MS. M. MILLER: Well, we tried to stick with 11:00AM
4 Ninth Circuit. There are other cases -- 11:00AM

5 THE COURT: No, all I care about is the Ninth 11:00AM
6 Circuit. 11:00AM

7 MS. M. MILLER: Right. And there are other cases 11:00AM
8 in other circuits that could be persuasive that are much, much 11:00AM
9 stronger involving challenging indictments, involving 11:00AM
10 indictments where there is fraud alleged and where there is 11:00AM
11 substantial things and every single court recognizes the fact 11:00AM
12 that if the prosecutor was required to put every single fact 11:00AM
13 they were going to prove at trial in an indictment, 11:00AM
14 indictments would be unwieldy. And this is a fact, we're 11:00AM
15 really talking about here a fact. The Defendant is saying 11:00AM
16 they didn't have notice. 11:00AM

17 THE COURT: What case are you talking about, what 11:00AM
18 circuit? I have never had this issue in my court in my life, 11:00AM
19 so I want to see it. If you're telling me that there is 11:00AM
20 something that could be persuasive -- 11:00AM

21 MS. M. MILLER: Yes. 11:00AM

22 THE COURT: Not mandatory, I'll look at it, but 11:00AM
23 you -- 11:00AM

24 MS. M. MILLER: Yes. 11:00AM

25 THE COURT: And I did say just give me the Ninth 11:00AM

1 Circuit because I thought you guys had Ninth Circuit case law,
2 but I --

3 MS. M. MILLER: We do, you're saying it's a weak
4 case. Okay, it's a weak case.

5 THE COURT: It's a weak case. It's a weak case.
6 If you're going to compare this -- now you're saying, look,
7 there's other cases that are more complicated.

8 MS. M. MILLER: There are.

9 THE COURT: That deals with fraud, that have a
10 lot of indictments, could be shell -- whatever it might be.
11 Give me the case law.

12 MS. M. MILLER: Then we will do that, but at this
13 point, Your Honor, what I would recommend, because I don't
14 want to hold the jury up any longer, I will end my direct
15 examination of Special Agent Khamvongsa. The government feels
16 very strongly that those two pages of that bank record for
17 Limey Air should come in to prove the conspiracy to wire
18 fraud, and we'll just put a pin in. We will cite you the
19 other circuits which are persuasive, as you recognized, not --
20 they're not mandatory for you to follow it, but there are fact
21 patterns in other cases --

22 THE COURT: All right. We'll look at it. I
23 never -- I never believe a lawyer until I read it myself.

24 MS. M. MILLER: Yeah. Absolutely.

25 THE COURT: So.

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1 MS. M. MILLER: We will do that. 11:01AM

2 THE COURT: I'm not necessary saying against you 11:01AM
3 because I think you're a good lawyer, but I don't believe 11:01AM
4 lawyers. 11:01AM

5 MS. M. MILLER: We will absolutely do that. We 11:01AM
6 will do that. 11:01AM

7 THE COURT: Yes. 11:01AM

8 MR. MARTIN: Your Honor, very briefly. When the 11:01AM
9 government submits to you that they didn't know about Pacific 11:02AM
10 Spotters until 2020, that's disingenuous. And I want to point 11:02AM
11 to the Court -- 11:02AM

12 THE COURT: I think they did say though earlier 11:02AM
13 on in 2018 or if I recall -- I can't remember the date, but I 11:02AM
14 did think that there was evidence -- 11:02AM

15 MS. M. MILLER: It was when they were filing 11:02AM
16 their motions to go to the Philippines, obviously they 11:02AM
17 mentioned Pacific Spotters first. 11:02AM

18 MR. MARTIN: May I -- 11:02AM

19 MS. M. MILLER: Which means, you know, they're 11:02AM
20 saying they have no notice, but they mentioned Pacific 11:02AM
21 Spotters first. 11:02AM

22 THE COURT: Well, listen, Counsel, we're talking 11:02AM
23 about notice in the indictment. Not notice in the world out 11:02AM
24 there, space. 11:02AM

25 MR. MARTIN: You asked them when they knew about 11:02AM

1 it so that they could have put it in the indictment. I 11:02AM
2 received this grand jury subpoena June 10th, 9th or 10th from 11:02AM
3 the government, which is the one that formed the basis for 11:02AM
4 these two exhibits that we're arguing about. The grand jury 11:02AM
5 subpoena that supports these two pages of exhibits they want 11:02AM
6 to introduce is dated November 22nd, 2019. They've had these 11:03AM
7 records prior to the Second Superseding Indictment, Your 11:03AM
8 Honor. And we never had this grand jury subpoena. 11:03AM

9 THE COURT: Well, okay. No matter what, bottom 11:03AM
10 line is, there has been no mention of any of the specific 11:03AM
11 shell corporations. That's really the issue before the Court. 11:03AM

12 MR. MARTIN: Correct. 11:03AM

13 THE COURT: And specifically we're only talking 11:03AM
14 about Pacific Spotters. Because that's the only matter that's 11:03AM
15 being challenged, because of the agent. So I -- the 11:03AM
16 prosecution is going to, you know, she could bring back the 11:03AM
17 witness, but I -- she can go ahead and submit a -- if she 11:03AM
18 thinks that there is stronger, not Ninth Circuit but circuit 11:03AM
19 opinion, I'll look at it, you guys can look at it. But in the 11:03AM
20 meantime, if the prosecution has no further questions of the 11:03AM
21 witness, you guys go ahead and start your cross. 11:03AM

22 MS. M. MILLER: Yup. 11:03AM

23 THE COURT: And then nothing about Pacific 11:03AM
24 Spotters would be allowed to be discussed at this time. I 11:03AM
25 think that's fair. So at this point, the Court is not going 11:04AM

1 to allow Pacific Spotters issue to be brought up. So we 11:04AM
2 should move right along because it's -- oh. 11:04AM

3 MR. MARTIN: Just to protect my record, Your 11:04AM
4 Honor. 11:04AM

5 THE COURT: -- 11:04. 11:04AM

6 MR. MARTIN: I am asking that this issue is at an 11:04AM
7 end, and that Agent Khamvongsa is not -- I want to put him 11:04AM
8 behind us. I'm just making my record. So I object to him 11:04AM
9 being allowed to be recalled. 11:04AM

10 THE COURT: Well, I mean, I haven't said he could 11:04AM
11 be recalled. The prosecutor wants to just have the 11:04AM
12 opportunity to look at -- pull a circuit opinion. How long 11:04AM
13 will it take you -- it took you -- you guys could get that 11:04AM
14 fast. 11:04AM

15 MS. M. MILLER: We have one right now. We're 11:04AM
16 going to send to chambers, Your Honor. 11:04AM

17 THE COURT: Let's look at it right now. Hold on, 11:04AM
18 we'll wait then. If you got it now, let's look at it now. 11:04AM
19 What circuit? 11:04AM

20 MS. M. MILLER: It's Second Circuit, Your Honor. 11:04AM

21 THE COURT: That's what I thought. I thought it 11:04AM
22 was second. All right. 11:04AM

23 Did you guys send it? Did you send it, Ms. 11:06AM
24 Miller? 11:06AM

25 MS. M. MILLER: I'm sending it. 11:06AM

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1 THE COURT: You're sending it now? 11:06AM

2 MS. M. MILLER: Right now. 11:07AM

3 THE COURT: Then, Emily, you're going to send it 11:07AM

4 to me? 11:07AM

5 (Discussion with law clerk.) 11:07AM

6 MS. M. MILLER: It was sent, Your Honor. 11:07AM

7 THE COURT: Okay. Thank you. Let me look at 11:08AM

8 that. You sent it to Counsel, too? 11:08AM

9 MS. M. MILLER: Yes. 11:08AM

10 THE COURT: Yeah. Okay. Thank you. 11:08AM

11 (Pause.) 11:08AM

12 MS. S. MILLER: Emily, will you get it if I send 11:08AM

13 it to chambers at -- 11:08AM

14 (Pause.) 11:08AM

15 MS. MCCONWELL: So which is the case, the *Hamling* 11:08AM

16 *versus United States*? 11:08AM

17 THE COURT: I'm sorry? What was that? 11:08AM

18 MS. MCCONWELL: I'm trying to figure out which 11:08AM

19 case she wants us to look at. 11:08AM

20 THE COURT: How many -- did you send one case, or 11:08AM

21 how many cases did you guys send? 11:08AM

22 MS. MCCONWELL: She sent a bunch of texts. 11:08AM

23 MS. S. MILLER: I sent -- it cites three cases, 11:08AM

24 but there is a string cite within one of them that includes 11:08AM

25 additional case law from other circuits, including the Second 11:08AM

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1 Circuit.

11:08AM

2 THE COURT: I'm sorry. Did you send me the case,
3 or are you sending me the citations?

11:08AM

11:09AM

4 MS. S. MILLER: Sorry. Did you want the actual
5 cases themselves?

11:09AM

11:09AM

6 THE COURT: No. It just takes time, now. I'll
7 find it. If you have the case, it'd be nice.

11:09AM

11:09AM

8 MS. MCCONWELL: Is the case the *United States*
9 *versus Cohen* case then?

11:09AM

11:09AM

10 MS. S. MILLER: All of them in there we think are
11 relevant.

11:09AM

11:09AM

12 (Pause.)

11:11AM

13 THE COURT: Which case? Okay. I'm just looking
14 at the little summaries, but which case is the one that you
15 said is more similar to this case? Counsel? I'll just pull
16 -- I'll go to that one first.

11:12AM

11:12AM

11:12AM

11:12AM

17 MS. M. MILLER: The one that we sent the hard
18 copy of to -- the entire copy, Your Honor.

11:12AM

11:13AM

19 THE COURT: Which one? The one that you sent me
20 already?

11:13AM

11:13AM

21 MS. M. MILLER: *LeMay*, the Second Circuit one,
22 yes. Oh, I'm sorry. It's Ninth Circuit quoting second?

11:13AM

11:13AM

23 MS. S. MILLER: Quoting second.

11:13AM

24 MS. M. MILLER: Yes, it's Ninth Circuit quoting
25 Second Circuit on this issue.

11:13AM

11:13AM

Direct - Khamvongsa

1 THE COURT: Okay. What second -- what case is
2 the Second Circuit? That's *Long*? No. Oh, that's Ninth
3 Circuit. *Long* is Ninth Circuit. I'm sorry. Which circuit --
4 which case is that, what's the name of the case?

5 MS. M. MILLER: One second.

6 THE COURT: Okay. All right. I want to review
7 these cases. I want to look at them. I want to look at the
8 facts. Which one are you relying on, Counsel? All I care
9 about is the facts. The case law -- I already know the case
10 law. Which facts are more relevant or similar to the facts of
11 this case? You said it's a Second Circuit case?

12 MS. MCCONWELL: It says *United States versus*
13 *Cohen*.

14 THE COURT: I'm sorry?

15 MS. MCCONWELL: It's *United States versus Cohen*,
16 which is in the second or third paragraph of their e-mail.
17 They cited that, a 1975 case.

18 THE COURT: Is that the one you guys are relying
19 on? I don't want --

20 MS. M. MILLER: That's one of them, Your Honor.
21 That's one of them, Your Honor. There are several that are
22 conspiracy cases with representations by the Court that it is
23 not necessary for the government to allege in the indictment
24 every single fact that supports and so, yeah.

25 THE COURT: Yeah. That goes with overt acts.

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1 That's true. You don't even have to put overt acts at all in
2 the indictment. You don't have to prove that.

3 MS. M. MILLER: Right.

4 THE COURT: That's actually surplusage.
5 Shouldn't even --

6 MS. M. MILLER: Right. Since we were contending
7 that it was all Jon Walker, that was our position. So anyway,
8 those are --

9 THE COURT: I'm sorry? Since you were what?

10 MS. M. MILLER: Since we were contending that the
11 illegal conduct was all Jon Walker, that he was the alter ego
12 for all of these companies, that was our position. And by the
13 time that subpoena was issued in November, we went to the
14 grand jury for a Second Superseding Indictment in December.
15 We didn't even have the records.

16 So, you know, our position is Limey Air, that was
17 the bank account, those were the wire fraud proceeds that went
18 into Limey Air. They came from leasing the same helicopters,
19 that are identified in the indictment, to the same tuna boat
20 companies, that are identified in the indictment. That is
21 more than sufficient for notice. And Pacific Spotters has
22 been mentioned by defense Counsel, Defendants, and is cited in
23 all of the G-number evidence that the government cited. I
24 think --

25 THE COURT: All right. I got it.

Direct - Khamvongsa

1 MS. M. MILLER: We just need to -- 11:15AM

2 THE COURT: Yes. 11:15AM

3 MR. MARTIN: The grand jury subpoena, Your Honor, 11:15AM
4 is December -- November 2019. The indictment is January 2021. 11:15AM
5 I don't think it took two years for them to get a return on 11:15AM
6 this grand jury subpoena that we didn't have a copy of. 11:15AM

7 THE COURT: All right. Listen, I want to read 11:16AM
8 these. It's going to it take me a little bit. So let me just 11:16AM
9 ask, is the prosecutor relying on *Cohen*, *LeMay* and *Williams*? 11:16AM
10 Are those your three top ones? 11:16AM

11 MS. M. MILLER: Yes, Your Honor. 11:16AM

12 THE COURT: Okay, is there any one -- other ones 11:16AM
13 that you want me to look at? 11:16AM

14 MS. S. MILLER: I mean, I think the bulk quote of 11:16AM
15 all those SDNY cases are relevant here. One of them is 11:16AM
16 security fraud case, for example. 11:16AM

17 THE COURT: All I care about, honestly, all I 11:16AM
18 care about is which facts are similar to the indictment in 11:16AM
19 this case, in terms of what has happened. 11:16AM

20 MS. S. MILLER: So the *United States versus Bin* 11:16AM
21 *Laden* case, 92 F.Supp.2d, where there was a denial of a Bill 11:16AM
22 of Particulars because unindicted co-conspirators weren't 11:16AM
23 listed. 11:16AM

24 THE COURT: You don't have to tell me what it is, 11:16AM
25 just tell me the case cite. All I care about is the case. I 11:16AM

1 don't want to review things I don't need to review. I 11:16AM
2 honestly know -- I think I know the case law. I just want to 11:16AM
3 know how -- which case you are you relying on to say, Judge, 11:16AM
4 this is -- this is persuasive authority that should allow us 11:16AM
5 to get this in. 11:17AM

6 MS. MCCONWELL: I don't see a *Bin Laden* case. 11:17AM

7 THE COURT: So *USA versus Bin Laden*. I saw Ms. 11:17AM
8 Marie Miller said yes as to *Cohen*, *LeMay* and *Williams*, right? 11:17AM
9 Right? Anything else? 11:17AM

10 MS. S. MILLER: I think the final one would be 11:17AM
11 *U.S. v. Bonventre*. It's 2013 Westlaw 2303726. 11:17AM

12 MS. MCCONWELL: Can you e-mail that case? 11:17AM

13 MS. S. MILLER: They're all in the cite right 11:17AM
14 there. 11:17AM

15 THE COURT: So will you repeat it? 11:17AM

16 MS. MCCONWELL: I don't have Westlaw. 11:17AM

17 THE COURT: 2013. 11:17AM

18 MS. S. MILLER: Sorry. 2013 Westlaw, 2303726. 11:17AM

19 THE COURT: Okay. Got it. So there is five 11:17AM
20 cases. This is what I'm going to go review. All right. 11:17AM
21 Let's go ahead and take a lunch break, and then we'll come 11:17AM
22 back. I'll tell the jurors to go ahead and eat lunch. Their 11:17AM
23 lunch is going to be here in a few minutes. And it's now 11:17AM
24 11:20. So I'll see all of you at 12:15. 11:17AM

25 MS. M. MILLER: Yes, Your Honor. 11:18AM

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1 MS. MCCONWELL: And, Samantha, will you e-mail 11:18AM
2 that to me? 11:18AM

3 MS. S. MILLER: They're all publicly available. 11:18AM
4 You can just Google it, and they'll come up on Casetext for 11:18AM
5 free. 11:18AM

6 (Recess taken at 11:18 a.m.) 11:18AM

7 (Back on the record at 12:47 p.m.) 12:47PM

8 THE COURT: All right. We're back on the record. 12:47PM
9 All Counsels present. Defendants are present. All right. So 12:47PM
10 I reviewed the prosecutor's cases, I still -- I'm not sure 12:47PM
11 100% on this issue, so I want to take a little bit more time, 12:47PM
12 to be honest with you. It's an important decision for both 12:47PM
13 the prosecution and defense. So I don't want to be rushed 12:47PM
14 into this decision. And anyway, so what I'm going to do is I 12:47PM
15 think we should just go ahead and proceed forward with the 12:47PM
16 agent. 12:47PM

17 MS. M. MILLER: Yes, Your Honor. 12:47PM

18 THE COURT: Go ahead and begin cross -- you can 12:47PM
19 end your cross, I mean direct. Defense can start their cross. 12:47PM
20 And then if the Court decides that it would be allowed, then 12:47PM
21 the Court may allow him to be called back. We can -- I can 12:47PM
22 decide that at that time. 12:47PM

23 MS. M. MILLER: Yes, Your Honor. 12:47PM

24 THE COURT: But that's -- and I understand that 12:47PM
25 the defense are objecting on the record. Is that -- Mr. 12:47PM

1 Martin, your objection is preserved and -- 12:47PM

2 MR. MARTIN: Thank you, Your Honor. 12:47PM

3 THE COURT: -- so is yours Ms. McConwell. All 12:47PM
4 right. We can get the witness up and we'll call in the jury. 12:47PM

5 MS. M. MILLER: Yes, Your Honor. 12:47PM

6 THE COURT: I think she's going to say -- are you 12:48PM
7 going to just ask any further questions? You want to just at 12:48PM
8 least let the jurors -- 12:48PM

9 MS. M. MILLER: I'm just going to let jurors know 12:48PM
10 at this time I have no further questions, subject to further 12:48PM
11 rulings of the Court. 12:48PM

12 THE COURT: All right. 12:48PM

13 MS. M. MILLER: And then I'll turn it over to 12:48PM
14 Mr. McConwell. If he wants to stand up so he doesn't have to 12:48PM
15 walk over, that's fine. I don't have to go up to the podium 12:48PM
16 to do that, Your Honor. 12:48PM

17 THE COURT: That's fine. Mr. McConwell, you can 12:48PM
18 do that. Do you want -- 12:48PM

19 MS. MCCONWELL: I'd like them to take their board 12:48PM
20 down. 12:48PM

21 MS. M. MILLER: Oh, is it okay with you if I just 12:48PM
22 flip it to just a blank page, or you want it -- 12:48PM

23 MS. MCCONWELL: That's fine. 12:48PM

24 MS. M. MILLER: That's fine? 12:48PM

25 MS. MCCONWELL: And, Your Honor. 12:48PM

Direct - Khamvongsa

1 MR. MCCONWELL: I'll need you to help with that. 12:48PM

2 MS. MCCONWELL: Ms. Miller's -- if he's recalled, 12:48PM

3 it will only be limited to that one item? 12:49PM

4 THE COURT: Right. I think that's all she wants 12:49PM

5 to talk about is those exhibits. She wanted to get those 12:49PM

6 exhibits and that one issue. Those issues, the issues related 12:49PM

7 to that one -- those two -- 12:49PM

8 MS. M. MILLER: Correct. 12:49PM

9 MS. MCCONWELL: It's two pages on one, but -- 12:49PM

10 because I don't want another 30, 40-hour long -- to be called 12:49PM

11 a direct if we come back, if he's called back. That's my 12:49PM

12 concern based on experience is one question turns into an 12:49PM

13 hour. 12:49PM

14 THE COURT: Okay, so noted. Let's call in the 12:49PM

15 jury. So understood. 12:49PM

16 MS. M. MILLER: I don't think I've taken 30 or 12:49PM

17 40 hours. Might have felt like -- 12:49PM

18 THE COURT: It feels like it, team. Both sides, 12:49PM

19 both sides. 12:49PM

20 MS. M. MILLER: Sometimes, yeah. 12:49PM

21 THE COURT: Not all the time, please. 12:49PM

22 (Jury in at 12:49 p.m.) 12:49PM

23 THE COURT: Please be seated. Welcome back, 12:50PM

24 ladies and gentlemen of the jury. Okay. You have been here a 12:50PM

25 long time, like 9:00, 10, 12, 4 hours. You had your lunch, 12:50PM

Direct - Khamvongsa

1 couple of your breaks. And the Court ran into an issue with 12:50PM
2 the attorneys on legal matter that had to be resolved. It's 12:50PM
3 taken us this long. So rather than send you back home, we 12:50PM
4 decided to see if we could try to resolve it, and we resolved 12:50PM
5 it somewhat. So at this time, let me ask Ms. Miller, Marie 12:50PM
6 Miller, do you have any further questions of the agent? 12:50PM

7 MS. M. MILLER: Your Honor, at this time, the 12:50PM
8 government has no further questions of the agent subject to 12:50PM
9 recalling him after Your Honor rules on the issue. 12:50PM

10 THE COURT: All right. Very well. And so at 12:50PM
11 this time, ladies and gentlemen, Mr. McConwell, on behalf of 12:50PM
12 Hansen Helicopters, is going to conduct his cross-examination 12:51PM
13 of the agent. You may proceed, Mr. McConwell. 12:51PM

14 MR. MCCONWELL: Thank you, Your Honor. 12:51PM
15 12:51PM

16 CROSS-EXAMINATION 12:51PM

17 BY MR. MCCONWELL: 12:51PM

18 Q. Mr. Khamvongsa, why don't you take us through your 12:51PM
19 assignment in this matter. What were you retained to do by 12:51PM
20 the government? 12:51PM

21 A. We have a hand. 12:51PM

22 THE COURT: Yes? 12:51PM

23 JUROR: The monitor. 12:51PM

24 THE COURT: Oh, monitors. Are the monitors are 12:51PM
25 not on? They're on now? IT? Somebody's monitor is not 12:51PM

1 working? Only one, we'll get the IT person to come on up. 12:51PM

2 Okay. Go ahead and proceed. Let's just see. 12:51PM

3 BY MR. MCCONWELL: (CONTINUING) 12:51PM

4 Q. First of all, when did you get the assignment? 12:51PM

5 A. I got the assignment around 2017. 12:51PM

6 Q. Could you give me approximate date? 12:51PM

7 A. Um... about the fall of 2017. 12:52PM

8 Q. And what were you designated to do? 12:52PM

9 A. My primary role was to investigate the conspiracy as 12:52PM
10 it relates to the wire fraud and the money laundering. 12:52PM

11 Q. And take us through the -- your investigation process 12:52PM
12 then. What did you do first? 12:52PM

13 A. First I reviewed the records that were provided to me 12:52PM
14 from the FBI and Department of Transportation OIG and U.S. 12:52PM
15 Attorney's Office -- 12:52PM

16 Q. What were those records? 12:52PM

17 A. The records relate to everything as it pertains to 12:52PM
18 what was seized from the search warrant, as well as any FAA 12:52PM
19 records that were available that the time. 12:52PM

20 Q. How about DOT records, memorandums to DOT? 12:52PM

21 A. I would have reviewed them. 12:52PM

22 Q. All the DOT -- you've seen the 2015 DOT memorandums 12:52PM
23 concerning the progress of the case at that point? 12:53PM

24 A. There was a lot. 12:53PM

25 Q. You've seen those; correct? 12:53PM

1 A. Yes. 12:53PM

2 Q. And you did note that in the memorandums, and 12:53PM
3 particularly in September, and again, in November, they 12:53PM
4 detailed the Jon Walker companies by name, they identified 12:53PM
5 each of the Vanuatu companies involved in this case and 12:53PM
6 depicted on Exhibit 829; correct? 12:53PM

7 A. What exactly is your question specifically? I'm not 12:53PM
8 understanding your question, I'm sorry. 12:53PM

9 Q. Okay. The DOT memos as of September and November of 12:53PM
10 2015, detailed or identified Jon Walker as the beneficial 12:53PM
11 owner of various Vanuatu corporations that owned aircraft 12:53PM
12 involved in this case; correct? 12:53PM

13 A. I looked at a lot of documents. Do you have the 12:53PM
14 specific document I could review? 12:53PM

15 Q. We could pull those out for you if you need it? 12:53PM

16 A. Sure. 12:53PM

17 Q. Did you have a liaison with the FAA that you worked 12:54PM
18 with initially? 12:54PM

19 A. Initially it was through DOT OIG. And when I say DOT 12:54PM
20 OIG, meaning Department of Transportation Office of Inspector 12:54PM
21 General. 12:54PM

22 Q. And that's the same office of Ms. Miller? Marie 12:54PM
23 Miller is from; is that correct? 12:54PM

24 A. Yes. 12:54PM

25 Q. So you received initial information, the status of 12:54PM

1 the case, from someone in DOT OIG; correct?

12:54PM

2 A. It was primarily through the U.S. Attorney's Office.

12:54PM

3 Q. Okay. What documents did you receive?

12:54PM

4 A. They include pilot-mechanic list, there was a lot
5 that I reviewed, but I reviewed pilot-mechanic lists, the bank
6 records pertaining to various companies belonging to Jon
7 Walker, memorandums, e-mails, statements made from witnesses
8 that were interviewed by the FBI.

12:54PM

12:54PM

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12:55PM

9 Q. Let's focus on the Jon Walker matter. What companies
10 are identified when you first got in the case as having been
11 involved with Mr. Walker?

12:55PM

12:55PM

12:55PM

12 A. When I initially reviewed the case, the -- all the
13 moneys were going into the Caledonian Agency Inc. bank account
14 with some funds as it relates to the leasing of the
15 helicopters, going to Hansen Northern Helicopters and Hansen
16 Helicopters itself.

12:55PM

12:55PM

12:55PM

12:55PM

12:55PM

17 Q. Okay. We'll come back to that after a while and talk
18 a little bit about that detail. You were critical of the
19 corporate structure that Mr. Walker established to handle the
20 business that he acquired in 1998; correct?

12:56PM

12:56PM

12:56PM

12:56PM

21 A. When you say I'm being critical, what exactly are you
22 referring to?

12:56PM

12:56PM

23 Q. Well, you defined what a valid corporation was;
24 correct?

12:56PM

12:56PM

25 A. I did -- I did speak about that earlier, yes.

12:56PM

1 Q. Well, your education you said as an accounting major? 12:56PM

2 A. Yes. 12:56PM

3 Q. Did you take corporations? 12:56PM

4 A. Yes. 12:56PM

5 Q. Did you take auditing? 12:56PM

6 A. We did, yes. 12:56PM

7 Q. Did you take contract course? 12:56PM

8 A. Yes. 12:56PM

9 Q. Okay. Can you tell me what the phrase beneficial 12:56PM

10 interest -- the essential benefit means in terms of what -- of 12:57PM

11 a contract, what that means? 12:57PM

12 A. The beneficial interest? 12:57PM

13 Q. No. Strike that. Essential purpose, I'm sorry, 12:57PM

14 essential purpose. 12:57PM

15 A. The essential purpose, as it relates to? 12:57PM

16 Q. A contract. 12:57PM

17 A. The essential purpose? I'd have to see it within the 12:57PM

18 contract itself. 12:57PM

19 Q. For example, and we'll get into it a little bit 12:57PM

20 later, if we have lease agreements concerning tuna boats and 12:57PM

21 aircraft being supplied to tuna boats, the essential purpose 12:57PM

22 of that contract would be to provide that facility of an 12:57PM

23 aircraft that would be able to do fish spotting in this 12:57PM

24 instance; correct? 12:57PM

25 A. Are we talking about the misrepresentations made to 12:57PM

1 the tuna boat companies from --

12:57PM

2 Q. I'm talking about the essential purpose of the
3 contract was to get an aircraft that can go spot for tuna;
4 correct?

12:57PM

12:57PM

12:57PM

5 A. Are we talking about specific contracts?

12:57PM

6 Q. I'm talking about -- yes, specific contract for a
7 tuna boat -- tuna contract and an aircraft. Essential purpose
8 of that contract is to get an aircraft that can spot for tuna
9 for that boat for the period of time of the contract; correct?

12:57PM

12:58PM

12:58PM

12:58PM

10 A. We're talking about the tuna boat companies as it
11 relates to this case; correct?

12:58PM

12:58PM

12 Q. I'm talking about any tuna boat contract with an
13 aircraft -- helicopter for fish spotting?

12:58PM

12:58PM

14 MS. M. MILLER: Your Honor, I'm going to object
15 because only the tuna boat contracts as they relate to this
16 case are relevant. So I think what's tripping up the question
17 is here is Mr. McConwell saying any tuna boat contract,
18 anywhere. That's not relevant.

12:58PM

12:58PM

12:58PM

12:58PM

12:58PM

19 THE COURT: All right. Mr. McConwell, you want
20 to specify?

12:58PM

12:58PM

21 MS. M. MILLER: I'll rephrase it, Your Honor.

12:58PM

22 THE COURT: Rephrase it. All right. Very well.
23 Sustained.

12:58PM

12:58PM

24 BY MR. MCCONWELL: (CONTINUING)

12:58PM

25 Q. Let's say a tuna boat contract for an aircraft to

12:58PM

1 spot for tuna, in this -- similar to this case, the essential
2 purpose of that contract is to provide an aircraft and spot
3 for tuna for the period of time requested; correct?

4 A. If we're talking about the contracts I looked at?

5 Q. I'm talking -- yeah, a tuna boat contract similar to
6 the one in this case.

7 A. In --

8 Q. Ones in this case.

9 A. And what you're asking me is they could provide any
10 aircraft?

11 Q. An aircraft that would provide fish spotting services
12 for that contract, that's the essential purpose of the
13 contract; correct?

14 A. It's not correct.

15 Q. Not correct?

16 A. Yeah, that's not correct.

17 Q. What's incorrect -- not correct about it?

18 A. Well, the contract misrepresented that they're
19 providing U.S.-registered helicopters when in fact -- that
20 there were issues within the contract.

21 Q. Try to answer my question. The purpose of the
22 contract is to get an aircraft to provide tuna spotting
23 services; correct?

24 A. Tuna spotting services, that's it.

25 Q. Okay. That's what the purpose of the contract,

1 right?

01:00PM

2 A. Yeah, they would provide tuna spotting.

01:00PM

3 Q. For the boat for the three years or whatever the
4 period of the contract; correct?

01:00PM

01:00PM

5 A. As it relates just to the purpose, yes, tuna
6 spotting.

01:00PM

01:00PM

7 Q. That's the purpose of the contract. All right. Now,
8 we'll get into it a little bit later, but you have gone
9 through -- you have gone through 3 or 4,000 pages of
10 contracts; correct?

01:00PM

01:00PM

01:00PM

01:00PM

11 A. I've gone through a lot, sir.

01:00PM

12 Q. And the essential purpose of all those contracts,
13 whether signed or unsigned, was to provide an aircraft to
14 provide tuna spotting services for the boat involved; correct?

01:00PM

01:00PM

01:00PM

15 A. To provide tuna spotting services; correct.

01:00PM

16 Q. For the boat?

01:00PM

17 A. For the boat, fishing boat.

01:00PM

18 Q. Now, how many times have you testified by the way?

01:00PM

19 A. Um, it's maybe 3 or 4. Most of my cases plead out.

01:01PM

20 Q. When were these -- in Federal Court?

01:01PM

21 A. Oh, absolutely, yes.

01:01PM

22 Q. For the U.S. Attorney's Office?

01:01PM

23 A. Yes.

01:01PM

24 Q. Now, you took an oath to tell the truth, the whole
25 truth and nothing but the truth; correct? In this case?

01:01PM

01:01PM

1 A. Absolutely. Yes.

01:01PM

2 Q. Is it your job to tell the whole truth about the
3 circumstances that apply to this case?

01:01PM

01:01PM

4 A. Absolutely, absolutely.

01:01PM

5 Q. I mean, you don't give just the government's version
6 of it, for the purpose of convicting someone, you give the
7 good points and the bad points; correct?

01:01PM

01:01PM

01:01PM

8 A. I tell the truth and nothing but the truth, so...

01:01PM

9 Q. I believe toward the end of the direct examination
10 the other day, you went through the wire transfers for certain
11 boats and you matched it up to the billing history of Wilma's;
12 correct?

01:02PM

01:02PM

01:02PM

01:02PM

13 A. What I testified to is I went through 3,000
14 transactions and we just picked a sample. So I've actually
15 reviewed every single wire as it relates to what I was
16 involved in, in regards to the investigation.

01:02PM

01:02PM

01:02PM

01:02PM

17 Q. Now, was this a random sample or was it a selected
18 sample?

01:02PM

01:02PM

19 A. This sample, these particular ones involved wires
20 that happened to coincide with the FBI search warrant. In
21 addition, it was an abnormal transaction that occurred within
22 that account. It was a huge dollar amount, which represents
23 trying to move money to get away -- to get it out of law
24 enforcement oversight.

01:02PM

01:02PM

01:02PM

01:02PM

01:02PM

01:02PM

25 MR. MCCONWELL: Move to strike that answer.

01:02PM

1 That's not responsive, Your Honor.

01:03PM

2 MS. M. MILLER: Well, Your Honor, I think that
3 answer was absolutely responsive.

01:03PM

01:03PM

4 THE COURT: Okay. Hold on. Let me just --
5 Veronica, can you repeat the question and answer real quick
6 here?

01:03PM

01:03PM

01:03PM

7 (Whereupon the reporter read back requested
8 portion.)

01:03PM

01:03PM

9 THE COURT: All right. The Court will make its
10 ruling. I will sustain the objection and the Court will order
11 the witness to just answer the question. That was a very
12 specific question. Was it random or actual. Okay. So you
13 want to answer the question random or actual? You want to
14 still ask the question?

01:03PM

01:03PM

01:03PM

01:03PM

01:03PM

01:03PM

15 MR. MCCONWELL: Yes.

01:03PM

16 THE COURT: Okay.

01:03PM

17 THE WITNESS: So the question again is?

01:03PM

18 BY MR. MCCONWELL: (CONTINUING)

01:03PM

19 Q. It was not a random sample; correct?

01:03PM

20 A. No, it was not a random sample.

01:04PM

21 Q. It was a selection of ten particular aircraft and
22 then two more; correct?

01:04PM

01:04PM

23 A. No.

01:04PM

24 Q. Okay. How did you make the selection?

01:04PM

25 A. No. Your question was ten random aircraft?

01:04PM

1 Q. Ten random aircraft, that received special restricted
2 airways certificates on February the 25th, 2015, and two
3 others that received standard airworthiness certificates
4 several years earlier.

5 A. I apologize, sir, but I thought we were talking about
6 the transactions as it relates to the wire fraud and not the
7 -- I think I misunderstood your question. Are you talking
8 about the airplane or the monetary -- the wire fraud
9 transactions themselves?

10 Q. I'm talking about the money, the \$4.9 million you
11 seized, and you went through this analysis of the money and
12 tracked it through the accounts of the various companies, and
13 it was specific just selected items, not a random sample?

14 MS. M. MILLER: Your Honor, I'm -- I apologize.
15 I'm not sure I understand the question, so I'm not sure if
16 there is an objection there. He started with the
17 transactions, then he went to the money that was seized.

18 THE COURT: Okay. I think the objection will be
19 sustained. Can you just rephrase the question, Mr. McConwell?

20 BY MR. MCCONWELL: (CONTINUING)

21 Q. Well, you got -- you ultimately got a search warrant
22 or a warrant to seize \$4.9 million?

23 A. Yes.

24 Q. And for each of the items that you -- that came up in
25 that total \$4.9 million, you did that analysis of tracking the

1 money; correct? 01:05PM

2 A. Yes, yes. I did trace the money as it relates to 01:05PM
3 what I seized. 01:05PM

4 Q. Okay. 01:05PM

5 A. To the wire fraud and the misrepresentations made to 01:05PM
6 the tuna boat companies as well as the helicopters and the 01:05PM
7 pilots and mechanics involved. 01:05PM

8 MR. MCCONWELL: Again, I move to strike. That's 01:05PM
9 not responsive, Your Honor. 01:05PM

10 THE COURT: Just answer yes or no. The Court 01:06PM
11 will strike your answer, and just answer yes or no. Did you 01:06PM
12 or did you not? Just answer it that way. Okay. 01:06PM

13 THE WITNESS: Yes, ma'am. 01:06PM

14 MS. M. MILLER: Your Honor, I don't believe -- 01:06PM
15 can we hear Mr. McConwell's question back because it didn't 01:06PM
16 call for a yes or no answer. 01:06PM

17 THE COURT: Okay. Let's call it back then. Let 01:06PM
18 me hear. Veronica, last question, last answer. 01:06PM

19 (Whereupon the reporter read back requested 01:06PM
20 portion.) 01:06PM

21 THE COURT: Okay. So that's fine then. 01:06PM

22 Objection -- I mean, let me take back my ruling. So he 01:06PM
23 answered the question, yes. 01:06PM

24 MR. MCCONWELL: It was the tail end of the answer 01:06PM
25 was not responsive. The first part was correct.

1 THE COURT: The part about seized?

2 MR. MCCONWELL: No. I think it went beyond that.

3 We can go on --

4 THE COURT: No, I think that's all. That was all
5 -- is there any other parts to that answer? 01:07PM

6 (Whereupon the reporter read back requested 01:07PM
7 portion.) 01:07PM

8 THE COURT: All right. So the Court will strike 01:07PM
9 the last -- last part of the answer. The part where he says 01:07PM
10 yes, the Court will keep that. So disregard anything after 01:07PM
11 the word yes. Okay. Proceed. 01:07PM

12 BY MR. MCCONWELL: (CONTINUING) 01:07PM

13 Q. Now, did you utilize the QuickBooks programs of the 01:07PM
14 companies? 01:07PM

15 A. Um... I did review it. 01:07PM

16 Q. Did you run a trial balance for yourself off the 01:07PM
17 quick -- or just -- what did you do to review -- let me 01:07PM
18 withdraw. 01:07PM

19 What did you do in your review and what action did 01:07PM
20 you take with regard to the QuickBooks program in your 01:07PM
21 analysis? 01:07PM

22 MS. M. MILLER: Objection, Your Honor; compound 01:08PM
23 question. 01:08PM

24 THE COURT: What did you do? What was the last 01:08PM
25 part of that? 01:08PM

1 MR. MCCONWELL: I'll rephrase.

01:08PM

2 THE COURT: Okay. Go ahead.

01:08PM

3 BY MR. MCCONWELL: (CONTINUING)

01:08PM

4 Q. You used QuickBooks; correct?

01:08PM

5 A. I didn't use that. I reviewed what the forensic
6 accountant -- the forensic accountant and I reviewed it
7 together.

01:08PM

01:08PM

01:08PM

8 Q. Okay. So you had the QuickBooks reports that the
9 forensic accountant, Ms. Jones, came up with; correct?

01:08PM

01:08PM

10 A. Yes, Ms. Jones; correct.

01:08PM

11 Q. And did she -- did you identify any general accepted
12 accounting principles that were violated in the preparation of
13 the QuickBooks?

01:08PM

01:08PM

01:08PM

14 A. Um... I didn't look at that for that purpose; no.

01:08PM

15 Q. And you heard Ms. Jones' testimony, she -- her issue
16 with regard to the QuickBooks was not gapped general aviation
17 -- generally-accepted accounting principles, she just didn't
18 like it. Remember that?

01:08PM

01:08PM

01:08PM

01:09PM

19 A. Are you talking about the -- how the quickbook[sic]
20 records were being maintained?

01:09PM

01:09PM

21 Q. Right; correct.

01:09PM

22 A. So -- so the question you want me to ask -- or
23 respond to is what again, sir?

01:09PM

01:09PM

24 Q. Well, there is no gap problem with it, but do you
25 agree with Ms. Jones you just didn't like the way it was

01:09PM

01:09PM

1 structured or do you have any opinion on that at all? 01:09PM

2 A. Well, the quickbook[sic] records moved around just 01:09PM
3 like what my review of the bank records, in that money was 01:09PM
4 being moved to other corporations owned by Jon Walker for no 01:09PM
5 legitimate business reason. 01:09PM

6 Q. It was identified where the money was going, and when 01:09PM
7 it was going to go; correct? Nothing wrong with that, is 01:09PM
8 there? 01:09PM

9 A. If it's a legitimate business reason, there is 01:09PM
10 nothing wrong with it. But if you're using it to hide money 01:09PM
11 or conceal some criminal activity or conceal who the 01:10PM
12 beneficiary of the money is, then it's a problem. 01:10PM

13 Q. There's never been a concealing that Jon Walker was 01:10PM
14 the beneficiary of these companies, was there? 01:10PM

15 A. The concealment is in the tax record. Hansen 01:10PM
16 Helicopters, if you looked, we talked about \$23 million to a 01:10PM
17 potential -- 01:10PM

18 MR. MARTIN: Your Honor, I've got to object. 01:10PM
19 That's not responsive at all to the question that was asked. 01:10PM

20 MS. M. MILLER: Your Honor, the question that 01:10PM
21 asked -- 01:10PM

22 THE COURT: Okay. Okay. Hold on. I don't want 01:10PM
23 to hear it. Let me see. Let me just hear the question again. 01:10PM

24 (Whereupon the reporter read back requested 01:10PM
25 portion.) 01:10PM

1 THE COURT: All right. The -- so let me -- let
2 me just do it this way. Let's -- the Court will strike the
3 answer, and just answer the question, so just reask-- you want
4 to still ask the same question, Mr. McConwell?

5 MR. MCCONWELL: Yes, Your Honor.

6 THE COURT: Okay. So let me ask my court
7 reporter to reask the question. Say it again, Veronica.

8 (Whereupon the reporter read back requested
9 portion.)

10 THE WITNESS: Yes, there's been concealment.

11 THE COURT: Okay, next question.

12 BY MR. MCCONWELL: (CONTINUING)

13 Q. Where?

14 A. On the tax returns.

15 Q. Now, tax returns, you're talking about the Hansen
16 Helicopters tax returns?

17 A. And his own personal tax returns.

18 Q. Now, you announced that there was -- Hansen
19 Helicopters reported only 20% of the overall income, was that
20 what you said the other day?

21 A. Yes. They reported less than 20% on the corporate
22 tax returns; correct.

23 Q. How would you describe for us your assessment of the
24 different -- in the structure of the companies, the Hansen
25 Helicopters' companies, affiliated companies or however you

1 want to describe it, ones you attribute to Mr. Walker? 01:12PM

2 MS. M. MILLER: I'm not sure I understand the 01:12PM
3 question, Your Honor. 01:12PM

4 THE COURT: Do you understand the question, 01:12PM
5 Mr. Witness? 01:12PM

6 THE WITNESS: Could you rephrase it, sir? 01:12PM

7 MR. MCCONWELL: I'll rephrase it. 01:12PM

8 THE COURT: Let's see if he understands it. 01:12PM

9 MR. MCCONWELL: I was going to preliminaries 01:12PM
10 originally. We'll start from the beginning. 01:12PM

11 BY MR. MCCONWELL: (CONTINUING) 01:12PM

12 Q. The -- when Mr. Walker bought the company, he decided 01:12PM
13 obviously to set up a series of companies; correct? 01:12PM

14 A. He decided -- Jon Walker decided to set up a series 01:12PM
15 of companies. 01:12PM

16 Q. Right. 01:12PM

17 A. Companies or alter egos, yes. 01:12PM

18 Q. Well, I asked you about companies. We'll talk about 01:12PM
19 alter egos later. Whole different topic, sir. He set up 01:12PM
20 eight United States corporations; correct? In Guam? 01:12PM

21 A. Yes. 01:12PM

22 Q. And then he set up another United States corporation 01:12PM
23 called Wilma's Flight Service[sic], Inc.; correct? 01:12PM

24 A. Walker set up Wilma's Flight Services here in Guam, 01:13PM
25 yes. 01:13PM

1 Q. Okay. And that was in 1999; correct? 01:13PM

2 A. Around that time, yes. 01:13PM

3 Q. And you verified that by looking at the corporate 01:13PM
4 records of Guam, and you know that that actually did occur; 01:13PM
5 correct? 01:13PM

6 A. Yes. 01:13PM

7 Q. Okay. You also know, don't you, sir, that that 01:13PM
8 corporation was dissolved in 2008; correct? 01:13PM

9 A. Yes. 01:13PM

10 Q. Okay. 01:13PM

11 A. Well, I recall that there being no more filings as of 01:13PM
12 2008, doesn't -- I didn't really see anything that reflected 01:13PM
13 that it was dissolved. 01:13PM

14 Q. Were you aware that the procedure for dissolving a 01:13PM
15 corporation is to lower the life of the corporation from 01:13PM
16 perpetual to some fixed amount, sometime, and that was done in 01:13PM
17 this instance at 2008? 01:13PM

18 A. Was that a question or a statement? 01:13PM

19 Q. That's a question. Are you aware that that's the 01:14PM
20 procedure in Guam? 01:14PM

21 A. I'm not aware of that. 01:14PM

22 Q. But you see -- that wasn't an actually active 01:14PM
23 business company, was it, sir? Wilma's, the U.S. company? 01:14PM

24 A. How is it receiving money then if it's not active? 01:14PM

25 Q. You also know, don't you, sir, that in 2002, that 01:14PM

1 Wilma's Flight Service, Inc., in fact it was July the 1st,
2 2002, Wilma's Flight Service, Inc. was set up in Vanuatu as a
3 Vanuatu corporation? Don't you know that, sir?

4 A. In name only.

5 Q. Now -- well, how do you come up with that?

6 A. Because Wilma's Flight Service had a bank account
7 here in Guam, and it was receiving money as though it's a U.S.
8 corporation.

9 Q. Not until 2014 or so; correct?

10 A. So then it was not dissolved then if it's operating
11 as a U.S. corporation in 2014, when you said it dissolved in
12 -- when it stopped filing in 2008, right?

13 Q. Are you aware that a foreign corporation can set up a
14 bank account if they go through the right procedures in Guam
15 -- in United States, as was done in this instance in 2017, by
16 Wilma's Flight Service, Inc., the Vanuatu corporation?

17 MS. M. MILLER: Objection, Your Honor; assuming
18 facts not in evidence.

19 THE COURT: Mr. McConwell, on that objection?

20 MR. MCCONWELL: We have an exhibit on that.

21 Laura.

22 It's a new exhibit. It's the Wilma's Flight
23 Services board of directors from October 25, 2017.

24 THE COURT: Okay.

25 MR. MCCONWELL: Okay. We're going to -- I'm

1 going to withdraw that, Your Honor.

01:16PM

2 THE COURT: Okay.

01:16PM

3 MR. MCCONWELL: We're going to have a new number,
4 it's called "Certificate of Amendment of Articles
5 Incorporation" with a file stamp of November 21, 2008.

01:16PM

01:16PM

6 THE COURT: I'm sorry. So you're going to try to
7 get a new exhibit marking? Is that what you're saying?

01:16PM

01:16PM

8 MR. MCCONWELL: I want to -- I'm marking exhibit
9 -- this is Exhibit 130, Defendants.

01:17PM

01:17PM

10 MS. M. MILLER: And these are exhibits the
11 government has not seen, Your Honor.

01:17PM

01:17PM

12 THE COURT: Have you not seen that yet?

01:17PM

13 MR. MCCONWELL: This is cross-examination
14 material that we just received.

01:17PM

01:17PM

15 MS. M. MILLER: I'm sorry? I didn't hear what he
16 just said?

01:17PM

01:17PM

17 MR. MCCONWELL: This is cross-examination
18 material that we just received.

01:17PM

01:17PM

19 MS. M. MILLER: This is -- so for the record,
20 just so we're clear, this is cross-examination information
21 you've just received?

01:17PM

01:17PM

22 MR. MCCONWELL: Yes.

01:17PM

23 THE COURT: Okay, Exhibit 130. Look at it. See
24 what -- see if you know, okay. Look at that, Counsels.
25 Defendant's Exhibit 130, is that a correct number, Carm?

01:17PM

01:17PM

01:17PM

1 THE CLERK: It is, it's next. 01:17PM

2 THE COURT: Defendant's Exhibit 130. 01:17PM

3 (Exhibit D-130 marked.) 01:17PM

4 THE COURT: Hold on. Give the prosecutor a 01:17PM

5 minute to look at the certificate of amendment. And you want 01:17PM

6 to look -- you want all of this brought -- you're going to try 01:18PM

7 to move to admit all of this, Mr. McConwell? 01:18PM

8 MR. MCCONWELL: Yes. 01:18PM

9 THE COURT: Exhibit 130? 01:18PM

10 MR. MCCONWELL: It's the entire document. 01:18PM

11 THE COURT: Okay. Exhibit 130 consisting of how 01:18PM

12 many pages, 13... 15 pages. 01:18PM

13 MR. MCCONWELL: Right. 01:18PM

14 THE COURT: Any objections, Counsel? 01:18PM

15 MS. M. MILLER: Well, since I just received it, 01:18PM

16 Your Honor, and suspiciously, this was not in the Defendant's 01:18PM

17 computers when the computers received and the information was 01:18PM

18 downloaded. I would like more than 30 seconds to review 01:18PM

19 15 pages. 01:18PM

20 THE COURT: All right. 01:18PM

21 MR. MARTIN: Your Honor, may I ask the Court to 01:18PM

22 admonish the jury to disregard, the *suspiciously* comment by 01:18PM

23 Counsel, and if we continue with these, we're going to -- I'll 01:18PM

24 be making a motion and -- because that's totally 01:18PM

25 inappropriate. 01:18PM

1 THE COURT: Yes. I think the issue -- the 01:18PM
2 wording *suspiciously* will be stricken from the record. Ladies 01:19PM
3 and gentlemen of the jury, disregard that. If you guys want 01:19PM
4 to talk about suspiciously, talk to me about it privately. 01:19PM

5 MS. M. MILLER: And the government would like any 01:19PM
6 other exhibits the defense obviously intends to use with this 01:19PM
7 witness now, so that we could prepare for it. Your Honor has 01:19PM
8 held the government to a very tight requirement to provide the 01:19PM
9 defense with these exhibits, yet they're obviously intending 01:19PM
10 to use a number. 01:19PM

11 THE COURT: All right, Counsels, so you got more 01:19PM
12 than -- you got a minute or two. Go ahead and review it. 01:19PM

13 MS. M. MILLER: Thank you. 01:19PM

14 THE COURT: It's not -- it's just an article of 01:19PM
15 incorporation. Just see if you guys have notice of that. 01:19PM

16 (Pause.) 01:19PM

17 MS. M. MILLER: No objection, Your Honor. 01:20PM

18 THE COURT: Very well. Ladies and gentlemen of 01:20PM
19 the jury, Exhibit No. 130 will be admitted without objection. 01:20PM
20 (Exhibit 130 admitted.) 01:20PM

21 THE COURT: Is there any other evidence you want 01:20PM
22 to pass over? 01:20PM

23 MR. MCCONWELL: I've got 131. 01:20PM

24 THE COURT: Okay. Why don't you pass that over 01:20PM
25 to the prosecutor. Is that a number one? 01:20PM

1	MR. MCCONWELL: Yes.	01:20PM
2	THE COURT: Okay. 131. Anything else? Why	01:20PM
3	don't we give it to them now so we can move right along.	01:20PM
4	MR. MCCONWELL: I don't think anything new --	01:21PM
5	THE COURT: Just those two Mr./Ms. McConwell?	01:21PM
6	MR. MCCONWELL: Yes.	01:21PM
7	THE COURT: Okay.	01:21PM
8	MR. MCCONWELL: Of the new exhibits. The others	01:21PM
9	have been identified as exhibits in the trial.	01:21PM
10	THE COURT: Okay. Very well. So 130 and 131.	01:21PM
11	Is there a 132?	01:21PM
12	MR. MCCONWELL: Yes, there is, Your Honor.	01:21PM
13	THE COURT: Oh. 130, 131, 132.	01:21PM
14	(Exhibit 131 marked for identification.)	01:21PM
15	(Exhibit 132 marked for identification.)	01:21PM
16	MS. MCCONWELL: They have these.	01:21PM
17	THE COURT: They have them? The prosecution has	01:21PM
18	them? Okay.	01:21PM
19	MS. M. MILLER: We have 132?	01:21PM
20	MS. MCCONWELL: I'm going to give it to them.	01:21PM
21	THE COURT: Give it to them again.	01:21PM
22	MS. MCCONWELL: I will, I will.	01:21PM
23	THE COURT: Assuming you have them. I don't want	01:21PM
24	to have like a whole diatribe about whether you have them or	01:21PM
25	not.	01:21PM

1 MS. MCCONWELL: I'm moving slow to make sure I 01:22PM
2 don't mess -- 01:22PM
3 THE COURT: Okay. You're moving slow because of 01:22PM
4 what? 01:22PM
5 MS. MCCONWELL: I want to make sure that I don't 01:22PM
6 mess it up. 01:22PM
7 THE COURT: (Laughing.) 01:22PM
8 Okay. All right. 130, 131, and 132. I got 132. 01:22PM
9 Okay. 01:22PM
10 MR. MCCONWELL: Can we go ahead and hand those to 01:22PM
11 the witness? 01:22PM
12 THE COURT: Okay. Yes, sure. 130, 131, 132. 01:22PM
13 Anything else there, Mr. McConwell? Is this it for right now? 01:22PM
14 MR. MCCONWELL: For right now, Yes, Your Honor. 01:23PM
15 THE COURT: Okay. 01:23PM
16 So the prosecution you should have 130, 131, 132. 01:23PM
17 MS. M. MILLER: We do, Your Honor. 01:23PM
18 THE COURT: Okay. 01:23PM
19 There is a 133? Oh, okay. Why don't we get -- 01:23PM
20 do we have a 134? Why don't we get them all together. You 01:23PM
21 want to do that, Mr. McConwell. Why don't we get it all 01:23PM
22 together. 01:23PM
23 MR. MCCONWELL: I think those are all the new 01:23PM
24 ones, Your Honor. 01:23PM
25 THE COURT: I think there is a little bit more. 01:23PM

1 Let's -- why don't we just get -- Ms. McConwell is just
2 marking really quick. Prosecution are speed readers, they
3 could get it done fast.

4 Anything beyond 135? Not right now. Okay,
5 Mr. McConwell, Ms. McConwell will pass to the prosecution 130,
6 31, 32, 33, 34, 35.

7 MS. M. MILLER: Oh, we're up to 135 now?

8 THE COURT: Well, this has been happening, team.

9 MS. M. MILLER: Okay.

10 THE COURT: By both sides.

11 (Pause.)

12 MS. M. MILLER: No, Your Honor, we have no
13 objection to any of the exhibits being admitted.

14 THE COURT: Fabulous. Ladies and gentlemen of
15 the jury, Exhibit 130, 131, 132, 133, 134, 135 is admitted
16 into evidence without objection.

17 (Exhibits 130-135 admitted.)

18 THE COURT: And yes, Mr. McConwell, you may
19 proceed with your questions.

20 MR. MCCONWELL: Thank you, Your Honor.

21 Laura, are we going to be able to put that on?

22 THE COURT: Okay. You want this on?

23 MR. MCCONWELL: We'll put it on electronically.

24 THE COURT: Okay. It will be on the screen then.

25 MR. MCCONWELL: Yes.

1 THE COURT: Okay. 01:26PM

2 MR. MCCONWELL: If the witness wants the 01:26PM
3 individual exhibits, I could give them all to him. 01:26PM

4 THE COURT: Do you have the hard copies there? 01:26PM

5 THE WITNESS: They provided me with the hard 01:26PM
6 copy, Your Honor. 01:26PM

7 THE COURT: They've got -- he's got the hard 01:26PM
8 copies, but, yeah. 01:26PM

9 MR. MCCONWELL: Up to 135. 01:26PM

10 THE COURT: If you want to publish it to the 01:26PM
11 jurors, you may do so. 01:26PM

12 MR. MCCONWELL: Thank you, Your Honor. 01:26PM

13 THE COURT: I think we were able to fix the 01:26PM
14 monitor there, Carm? 01:27PM

15 THE CLERK: Yes, ma'am. With the help of one of 01:27PM
16 the other jurors. 01:27PM

17 THE COURT: Oh, good. Yes? Hold on, she's going 01:27PM
18 to let you in. 01:27PM

19 BY MR. MCCONWELL: (CONTINUING) 01:27PM

20 Q. Can you read the introduction to the -- this Exhibit, 01:27PM
21 130, the first paragraph and the beginning? 01:27PM

22 A. Sir, would you like me to start with the undersigned? 01:27PM

23 Q. I'd like you to start with "Certificate of amendment 01:27PM
24 of articles of incorporation filed by the Department of 01:27PM
25 Revenue and Taxation." That's what I'd like for you to read. 01:27PM

1 A. Okay. Sure. "Certificate of amendment of articles
2 of incorporation, filed Department of Revenue and Taxation,
3 Gov Guam, business registration, November 21st, 2008."

4 Q. The undersigned?

5 A. Oh. You want me to read whole thing, sir?

6 Q. Yes.

7 A. Oh, okay. "The undersigned being the duly elected
8 president and secretary and a majority of the members of the
9 board of directors of Wilma's Flight Services, Inc., a Guam
10 corporation, do hereby certify that the annexed second amended
11 articles of incorporation reflecting the amendment of Article
12 4 of the first amended articles of incorporation were duly
13 approved by a majority vote of the board of directors and the
14 written assent of more than two-thirds of the stockholders
15 representing all of the subscribed capital stock of the
16 corporation pursuant to a duly unexecuted unanimous consent of
17 shareholders and directors in lieu of combined special
18 meetings dated November 21, 2008. The undersigned do hereby
19 further certify that the same is correct and that said
20 amendment does not affect adversely or otherwise any rights or
21 actions which have or might have accrued to others between the
22 time of filing the first amended article of incorporation and
23 the filing of the second amended articles."

24 Q. Okay. Let's stop right there and go to article four
25 please on page 5. Could you read that, please?

1 A. "The corporation shall have succession by its
2 corporate name for the term expiring November 21st, 2008, and
3 it shall have all the powers here in enumerated or implied
4 here from and the powers now provided or which may be
5 hereafter provided by law for incorporated companies. "

6 Q. So isn't that the termination date of this
7 corporation, sir?

8 A. Expiring November 21st, 2008.

9 Q. Yes.

10 A. Yes.

11 Q. Correct?

12 A. Yes. That's what it appears on here.

13 Q. Now, with regard to Wilma's -- let's go back, I want
14 to put this in early so we can -- you represented to the jury
15 that Wilma's was a U.S. corporation and it was the one that
16 took all this money in that you looked at and said was wired
17 wrongfully; correct?

18 A. The last part, I'm sorry, I didn't -- it was wired
19 wrongfully?

20 Q. That they were -- this is part of the wire fraud by
21 Wilma's, the U.S. corporation, that was instrumental in your
22 findings; correct?

23 A. It was one of the vehicles used to receive -- that
24 was involved in the wire fraud, but it's more so Caledonian
25 Agency, Inc. Its just that the --

1 Q. Wilma's -- you put Wilma's in the middle of it, but 01:30PM
2 Wilma's was gone by the time these wires occurred; correct? 01:30PM

3 A. Wilma's was not gone. 01:30PM

4 Q. Wilma's, the U.S. corporation, expired, did no more 01:30PM
5 business after November 21, 2008; correct? 01:30PM

6 A. That's not correct. 01:31PM

7 Q. That's your opinion; correct? 01:31PM

8 A. It's not my opinion. It's based on fact. 01:31PM

9 Q. What fact? 01:31PM

10 A. In 2016, Jon Walker tried to sell Hansen Helicopters, 01:31PM
11 and as you recall, Wilma's Flight Services generated over 01:31PM
12 \$20 million from tuna boat company. It had not disappeared. 01:31PM
13 He claimed it as being still in existence and generating a lot 01:31PM
14 of money -- 01:31PM

15 MR. MCCONWELL: Move to strike this answer as 01:31PM
16 totally not responsive, Your Honor. 01:31PM

17 THE COURT: The Court will overrule that. He's 01:31PM
18 responding to -- you asked him how he knew that. 01:31PM

19 BY MR. MCCONWELL: (CONTINUING) 01:31PM

20 Q. I probably left it a little open, sorry. Go ahead. 01:31PM

21 A. As I said, Wilma's was still in operation because 01:31PM
22 their own records, Hansen Helicopters and Jon Walker's own 01:31PM
23 records, and earlier Mr. Crowe said that they are synonymous. 01:31PM
24 It showed that Wilma's still generated money. All those 01:31PM
25 various corporations that we saw earlier in that -- that was 01:31PM

1 released to a potential buyer, it showed that it was still 01:32PM
2 operating, generating money. These corporations are nothing 01:32PM
3 more than alter egos because if you look at the tax returns, 01:32PM
4 it should have been reported on Hansen Helicopters' tax return 01:32PM
5 only -- 01:32PM

6 MR. MARTIN: Your Honor, I now object. We're 01:32PM
7 getting into a narrative here. 01:32PM

8 THE COURT: Yeah. The Court will sustain that 01:32PM
9 part. Just how did you get it, not explain narrative about 01:32PM
10 what type of corporation you believe it to be. Just your 01:32PM
11 process of how you came to that conclusion -- 01:32PM

12 THE WITNESS: Okay. 01:32PM

13 THE COURT: -- is sufficient. 01:32PM

14 Anything else on that -- 01:32PM

15 THE WITNESS: I will end it on that note. Sorry, 01:32PM
16 thank you. 01:32PM

17 THE COURT: No, no, if you're done, you're done, 01:32PM
18 if you're not -- 01:32PM

19 BY MR. MCCONWELL: (CONTINUING) 01:32PM

20 Q. Now take a look at Exhibit 131 if you would, sir. 01:32PM
21 Let's put that up on the ELMO, on the screen. 01:32PM

22 THE COURT: I'm sorry, 131? 01:32PM

23 MR. MCCONWELL: 131, Your Honor. 01:32PM

24 THE COURT: Okay. Exhibit 131. 01:32PM

25 MR. MCCONWELL: That's 130. 01:33PM

1 MS. MCCONWELL: Sorry. 01:33PM

2 (Pause.) 01:33PM

3 MR. MCCONWELL: Before we do that, I'd like to 01:33PM
4 put up this 829, or have you hold up the poster board, Laura. 01:33PM

5 MS. MCCONWELL: Okay. 01:33PM

6 THE COURT: You want Mr. Han to hold up the 01:33PM
7 poster board? 01:33PM

8 MR. MCCONWELL: If he would, that'd be great. 01:33PM

9 BY MR. MCCONWELL: (CONTINUING) 01:33PM

10 Q. Now do you see 829? You're familiar with this 01:33PM
11 document, aren't you, sir? 01:33PM

12 A. Yes, sir. 01:33PM

13 Q. Okay. And that represents the 31 Vanuatu 01:33PM
14 corporations, and Bean Bag and on up; correct? 01:34PM

15 A. You're talking about the corporate structure that the 01:34PM
16 30 Vanuatu companies at the bottom, then Bean Bag, and then it 01:34PM
17 ended up flowing through Jon Walker, yes. 01:34PM

18 Q. Jon Walker is at the very top, but there is several 01:34PM
19 corporations in between; correct? 01:34PM

20 A. There are layers in between to -- between Walker and 01:34PM
21 the Vanuatu companies, there are layers in between. 01:34PM

22 Q. Now the Vanuatu companies, you see Wilma's Flight 01:34PM
23 Service, Inc. there as a corporation, a Vanuatu company; 01:34PM
24 correct? 01:34PM

25 A. I see it on that document, but I've never seen a 01:34PM

1 constitution for Wilma's Flight Services saying it's a Vanuatu
2 company.

3 Q. Okay. Explain how -- first of all, each of the
4 Vanuatu companies owned at least one aircraft pursuant to the
5 federal aviation registry information; correct?

6 A. The 30 Vanuatu companies all represented as U.S.
7 corporations on the FAA registry.

8 Q. And now the word FAA -- FAA is not on it, or U.S. is
9 not on the FAA bill of sale or the application for
10 registration form; is it, sir?

11 A. Are we talking about the registry or the bill of
12 sale? Because --

13 Q. I'm talking about 8050-1, the application for
14 registration. Doesn't say U.S. corporation on that at all,
15 does it, sir? It has a box for corporation; correct?

16 A. Can you please pull it up so we can discuss it?

17 Q. We'll do it a little later after a break, yes. You
18 don't remember that?

19 A. Well, I'm not going to respond until I look at it,
20 sir.

21 Q. Okay. We'll get that for you. So isn't it correct,
22 and you've read the leases, the 2900; 4,000 pages or whatever,
23 the leases were with Wilma's Flight Service, Inc., that has a
24 Vanuatu address on it, and with a particular individual boat;
25 isn't that correct?

1 A. That's not correct.

01:36PM

2 Q. What's wrong about that statement?

01:36PM

3 A. Any time you look at those Vanuatu companies, it is
4 Jon Walker. All the corporations are owned by Jon Walker.

01:36PM

01:36PM

5 Q. Sir, it's not responsive. I move to strike. That is
6 absolutely not responsive, sir.

01:36PM

01:36PM

7 THE COURT: So moving to strike?

01:36PM

8 MR. MCCONWELL: Yes.

01:36PM

9 THE COURT: All right. Let me -- all right. The
10 Court will grant the motion to strike. Please disregard,
11 ladies and gentlemen of the jury, and that will be stricken
12 from the record. Next question.

01:36PM

01:36PM

01:36PM

01:36PM

13 BY MR. MCCONWELL: (CONTINUING)

01:36PM

14 Q. Are you saying that all the companies, all the
15 Vanuatu companies, was all just a setup as a structure by Jon
16 Walker for his sole benefit?

01:36PM

01:36PM

01:36PM

17 A. Yes.

01:36PM

18 Q. Okay. And nobody else benefitted from that but Jon
19 Walker, all the various corporations on 829; correct?

01:36PM

01:36PM

20 A. Yes.

01:36PM

21 Q. And they were set up starting in 1999 with Bean Bag;
22 correct?

01:36PM

01:36PM

23 A. Which is owned by Jon Walker.

01:36PM

24 Q. You know about -- you took corporations, didn't you,
25 in college? You could be a shareholder of a corporation, that

01:36PM

01:37PM

1 doesn't necessarily mean you own the corporation assets, you
2 own a share in the corporation, doesn't it, sir?

3 A. Are we talking about as it relates to this case or
4 just in general?

5 Q. In general.

6 A. So you're asking me can any individual own a share of
7 stock in a corporation?

8 Q. Can any individual set up a corporation and be the
9 sole individual that owns any interest in the corporation?

10 A. Of course they could, but there is also other filing
11 requirements that are needed to show that that entity is its
12 own legal entity separate from the owners.

13 Q. And you're saying you've not seen any -- in your
14 research, this thorough research you did, you did not see any
15 documentation from Vanuatu of the constitutions of each one,
16 the minutes that set each of those corporations up? Is that
17 what you're saying?

18 A. Can you rephrase the question, sir?

19 Q. Are you saying that you have not looked at any of the
20 constitutions of any of those 30 companies or any of the
21 minutes that set up the initial companies at all?

22 A. I looked at a variety of documents as it relates to
23 everything that's up there.

24 Q. Have you looked at the constitutions for each of the
25 30 corporations, or any of the 30 corporations?

1 A. I looked at what -- what we did have. 01:38PM

2 Q. What did you have? 01:38PM

3 A. We have Evan Air, Marlin Bay, I believe Alpha Air. 01:38PM

4 There might be a couple more that seem to slip my mind. 01:38PM

5 Q. And you know that there is a Caledonian Insurance 01:38PM

6 Company, that was set up in about 2001, or about 2000, 01:38PM

7 actually; isn't that correct? 01:38PM

8 A. I'll have to see the corporate records. 01:38PM

9 Q. You looked at it one time or another, haven't you, 01:38PM

10 sir? 01:38PM

11 A. I have. 01:38PM

12 Q. Have you looked at the insurance policy that was 01:38PM

13 issued in 2005 by this insurance company? 01:38PM

14 A. The insurance policy? 01:38PM

15 Q. Yes. 01:39PM

16 A. I've seen an insurance policy. 01:39PM

17 Q. For -- issued by Caledonian Insurance Company; 01:39PM

18 correct? 01:39PM

19 A. From Caledonian Insurance Company. Okay, yes. 01:39PM

20 Q. You've seen that. 01:39PM

21 A. I -- 01:39PM

22 Q. And you've seen numerous of the constitutions of the 01:39PM

23 various 30 Vanuatu international companies; correct? 01:39PM

24 A. Yeah, again -- yeah, I've seen documents. 01:39PM

25 Q. Okay. And you've seen leases between Wilma's Flight 01:39PM

1 Services concerning aircraft that are registered under the 01:39PM
2 names of each of the 30 -- individual -- the 30 corporations; 01:39PM
3 correct? 01:39PM

4 A. (No response.) 01:39PM

5 Q. Let me start -- I'll withdraw that. Each of these 01:39PM
6 companies has, by the FAA registry, ownership of one or more 01:39PM
7 of the aircraft involved in this case? 01:39PM

8 A. But they didn't always match up with what was on the 01:39PM
9 contract. 01:39PM

10 Q. Sir, would you -- 01:39PM

11 MR. MCCONWELL: I move to strike, and ask him to 01:39PM
12 answer the questions, Your Honor. 01:39PM

13 THE COURT: Mr. Khamvongsa, please just answer 01:40PM
14 the question. 01:40PM

15 THE WITNESS: Yes, ma'am. 01:40PM

16 THE COURT: Okay. Do you understand last 01:40PM
17 question? 01:40PM

18 THE WITNESS: Could you ask again, please? 01:40PM

19 BY MR. MCCONWELL: (CONTINUING) 01:40PM

20 Q. Each of the 30 companies had an aircraft registered 01:40PM
21 on the U.S. registry, or more, one or more aircraft; correct? 01:40PM

22 A. Yes. 01:40PM

23 Q. And Wilma's acted as management company for the other 01:40PM
24 Vanuatu corporations, to enter into leases, with the boat -- 01:40PM
25 individual boats; correct? 01:40PM

Cross - Khamvongsa

1 A. Wilma's? Specifically? 01:40PM

2 Q. Yes. 01:40PM

3 A. I just want to make sure I understand. So Wilma's
4 specifically had contracts for the tuna boats? 01:40PM

5 Q. Right. And the individual Vanuatu corporations,
6 supplied their aircraft to Wilma's to be used for those
7 leases; isn't that correct, sir? 01:41PM

8 A. I've never seen a contract between... could you
9 rephrase the question one more time? 01:41PM

10 Q. It doesn't need to be a written contract for the
11 Vanuatu companies to supply their aircraft to Wilma's to
12 fulfill a lease requirement, does there, sir? 01:41PM

13 MS. M. MILLER: Objection, Your Honor. That
14 calls for a legal conclusion. 01:41PM

15 THE COURT: It calls for speculation. The Court
16 will sustain the objection. Rephrase. 01:41PM

17 BY MR. MCCONWELL: (CONTINUING) 01:41PM

18 Q. You're aware that the various companies, various
19 Vanuatu companies that had boats -- had aircraft, their
20 aircraft are on boats and they're on there pursuant to a
21 written lease between Wilma's and the individual boat, tuna
22 boat. You're aware of that, aren't you, sir? 01:41PM

23 A. I'm aware that there are multiple companies
24 identified within the contracts, including Wilma's. 01:42PM

25 Q. But the vast majority of the leases in 2900, the 01:42PM

1 4,000 pages of leases, are between Williams -- Wilma's and a
2 boat; correct?

3 A. The vast majority?

4 Q. Yes.

5 A. I -- I'm going to say no.

6 Q. Well, approximately what percentage of the total
7 4,000 pages for the written agreement between Wilma's and a
8 particular boat?

9 A. I -- I couldn't say.

10 Q. How many of them did you look at?

11 A. I looked at every one, sir.

12 Q. And you can't give us a sense of the percentage of
13 Wilma's involvement. Do we need to go through each one for
14 you to verify that for you?

15 A. Yeah, if you'd like. I mean, I'm not trying to be
16 difficult, but it's -- if I recall correctly, it's about
17 5,000 pages, 4 to 5,000 pages, and so when I went through, I
18 looked at specifically the sections as it relates to my
19 investigation. I didn't actually keep a tabular count which
20 -- to identify how many went to a specific company.

21 Q. And Williams[sic] actually did the billing and the
22 collection of the money, and it came back into Williams --
23 Wilma's bank account; correct?

24 A. Wilma's, which Jon Walker had control; yes.

25 MR. MCCONWELL: I move to strike. And ask just

1 answer the question.

01:43PM

2 THE COURT: Yeah, the Court will sustain the
3 objection. The part about "which Jon Walker" -- that's
4 surplusage or added verbiage and just answer the question.
5 The Court will sustain that objection and strike it. Please
6 disregard the last few words.

01:43PM

01:43PM

01:43PM

01:43PM

01:43PM

7 BY MR. MCCONWELL: (CONTINUING)

01:43PM

8 Q. In your investigation, you had the power of the
9 United States government behind you for subpoenas and request
10 for information, didn't you, sir?

01:43PM

01:43PM

01:43PM

01:44PM

11 A. I did use the grand jury subpoenas; yes.

12 Q. Well, you should know then that the Wilma's money was
13 collected for the boat leases went into a Vanuatu bank account
14 for a good deal of time. It was handled in that manner from
15 the Vanuatu bank account; correct?

01:44PM

01:44PM

01:44PM

01:44PM

16 A. That's not correct.

01:44PM

17 Q. Do you know why after 2014 there was no Vanuatu bank
18 account for Williams -- for Wilma's?

01:44PM

01:44PM

19 A. I do.

01:44PM

20 Q. Is that because Vanuatu changed the rules and said
21 they had to get their money out of the bank and out of the
22 country? And other corporations like them, not just -- wasn't
23 singling out --

01:44PM

01:44PM

01:44PM

01:44PM

24 MS. M. MILLER: Objection, Your Honor. Counsel
25 is testifying and he's also inserting facts that are not in

01:44PM

01:44PM

1 evidence.

2 THE COURT: The Court will overrule that
3 objection, he says he knows why. Overruled.

4 Can you answer his question?

5 THE WITNESS: Yes.

6 THE COURT: Okay.

7 THE WITNESS: So any offshore account that they
8 had, they were forced to close it and so all moneys went into
9 Caledonian Agency, Inc. bank account thereafter.

10 MR. MCCONWELL: I move to strike his answer.
11 We'll get to that, Your Honor.

12 THE COURT: Okay. The Court will grant that
13 motion to strike, just -- he talked about the corporate
14 structure change. That was the question, so answer that
15 question.

16 MR. MCCONWELL: But my question -- the answer is
17 okay. It's just the law made them get the money out of the
18 Vanuatu, out the banks, the Vanuatu -- I think that's what he
19 said.

20 THE COURT: No, actually, I think he went beyond
21 that but --

22 MR. MCCONWELL: He did. That's why I move to
23 strike.

24 THE COURT: So I guess it's not clear how he
25 answered that question. So did the law change? That was his

1 question, did the law change?

01:45PM

2 THE WITNESS: No, I -- I thought I heard that --
3 I apologize, but I thought he asked me what happened with the
4 bank, the bank account specifically.

01:45PM

01:45PM

5 THE COURT: Okay. Let's go back to the question.
6 Hold on. Let's go back to the question. Hold on. Hold on.
7 Hold on one second.

01:45PM

01:46PM

01:46PM

01:46PM

8 How are you doing there, Mr. Han? Are you tired?
9 Do you need help there, Mr. Han? We need to get you an easel
10 there. Let's help him. I think he's going to be tired.

01:46PM

01:46PM

01:46PM

11 I'll have Veronica just read. Thank you, Steven.
12 I appreciate that. Let's get a repeat of that question. I
13 think it was very specific. Let's see what Veronica says
14 here.

01:46PM

01:46PM

01:46PM

01:47PM

15 (Whereupon the reporter read back requested
16 portion.)

01:47PM

01:47PM

17 THE COURT: Okay, so that's the question.

01:47PM

18 THE WITNESS: About the law.

01:47PM

19 THE COURT: About the rules. I thought it was
20 the law, but they said the rules.

01:47PM

01:47PM

21 THE WITNESS: I -- I don't know about the rules
22 specifically.

01:47PM

01:47PM

23 THE COURT: All right. Next question.

01:47PM

24 BY MR. MCCONWELL: (CONTINUING)

01:47PM

25 Q. But you do know that the money, if it really was in

01:47PM

1 the Vanuatu bank account for the -- Wilma's, went to
2 Caledonian Agency; correct?

3 MS. M. MILLER: Objection, Your Honor; assuming
4 facts not in evidence. Calls for speculation.

5 MR. MCCONWELL: He's already testified about
6 that.

7 MS. M. MILLER: He said the money, if it was in.

8 THE COURT: The Court will -- okay. Let's see.
9 The Court will sustain the objection. Just ask it another way
10 if you want to.

11 BY MR. MCCONWELL: (CONTINUING)

12 Q. Will you agree that the money that was collected from
13 the leases after 2014 went into an account of -- Caledonian
14 Agency?

15 A. Yes.

16 Q. Okay. And that was a non-operating company; correct?

17 A. Yes.

18 Q. And it was -- it held the moneys in trust for the
19 distribution of bills and the like for -- or handled by Hansen
20 in its administrative capacity; correct?

21 A. No.

22 Q. Now, the Vanuatu -- or the Williams[sic] money
23 collected was not income in United States, was it, sir?

24 A. I'm sorry? One more time.

25 Q. The money collected by Wilma's Flight Service, Inc.,

1 a Vanuatu company, on behalf of the Vanuatu 30 corporations,
2 was not income in the United States; correct?

3 A. Oh, it's income to Hansen Helicopters.

4 Q. No, it's not -- it's income to the individual
5 Wilma's, isn't it? It's being held for the benefit of
6 Williams -- Wilma's.

7 A. No, that's incorrect.

8 Q. Okay. And you do know, don't you, that the chief
9 financial officers of Hansen, over the years, had been
10 certified public accountants, and the current one is one, he's
11 not an active one, but he was manager of a local big
12 accounting firm?

13 MS. M. MILLER: Objection, Your Honor; compound
14 question, speculation, assuming facts not in evidence.

15 MR. MCCONWELL: I'll withdraw and ask again.

16 THE COURT: Okay, withdrawn. Next question.
17 BY MR. MCCONWELL: (CONTINUING)

18 Q. Are you aware what that the current CFO of Hansen is
19 a CPA that was a former manager of one of the Big 8 accounting
20 firms?

21 MS. M. MILLER: Objection, Your Honor; outside
22 the scope. Current CEO of Hansen? Current meaning as of
23 today?

24 MR. MCCONWELL: CFO.

25 THE COURT: I'm sorry? Sorry? She's saying --

1 current, what do you mean by current?

01:49PM

2 MR. MCCONWELL: CFO during the relevant time
3 period within this --

01:50PM

01:50PM

4 THE COURT: So not current.

01:50PM

5 MS. M. MILLER: Not current, okay.

01:50PM

6 THE COURT: You don't mean current, right?

01:50PM

7 MR. MCCONWELL: Well, he is current at the time,
8 yes. The CFO of Hansen was the CPA at the time the money went
9 into Caledonian Agency?

01:50PM

01:50PM

01:50PM

10 THE COURT: Okay.

01:50PM

11 THE WITNESS: So the question is?

01:50PM

12 BY MR. MCCONWELL: (CONTINUING)

01:50PM

13 Q. You're aware that -- the money --

01:50PM

14 THE COURT: Your question is again?

01:50PM

15 BY MR. MCCONWELL: (CONTINUING)

01:50PM

16 Q. The deposit was under the eyes and ears of a CFO,
17 chief financial officer, who was a CPA?

01:50PM

01:50PM

18 A. So you're asking me if the CFO is aware of the money
19 coming into the bank account?

01:50PM

01:50PM

20 Q. At Caledonian Agency, in terms and conditions under
21 which it comes into that bank account?

01:50PM

01:50PM

22 MS. M. MILLER: Objection, Your Honor. That
23 would call for speculation.

01:50PM

01:50PM

24 THE COURT: Sustained.

01:50PM

25 BY MR. MCCONWELL: (CONTINUING)

01:50PM

1 Q. Okay. Do you know what kind of business the
2 Caledonian Agency was actually engaged in, if any?

3 A. According to -- yes.

4 Q. What?

5 A. It should have been investment as it says on the bank
6 signature card.

7 Q. But you're not aware of any investment income or
8 expenses relating to that, are you, sir?

9 A. No.

10 Q. Let's take a look at 131, if we can. Now would you
11 tell us what this is, please?

12 A. This is Wilma's Flight Services, Inc. minutes.

13 Q. And would you go ahead and read that first line,
14 first two lines for us, please?

15 A. Yes, sir. "Minutes of the shareholders and board of
16 directors meeting of Wilma's Flight Services, Inc. held at the
17 company affiliates Hansen Helicopters, Inc. Offices in Harmon,
18 Guam on October 25th, 2017."

19 Q. Keep going.

20 A. "Present Jon D. Walker, Director, also representing
21 Bean Bag Helicopters, Inc., the 100% owner of the company
22 ultimately owned by Jon D. Walker. Kenneth R. Crowe,
23 Director. Chairman, by agreement, Jon D. Walker, chaired the
24 meeting. Discussion." Do you want me to read all that, sir?

25 Q. Yeah, go ahead.

1 A. "The general operations of the company were
2 discussed. The initial financial statements as and for the
3 year ended December 31st, 2016, were reviewed and discussed.
4 It was agreed that the financial statements show that the
5 company continues to do extremely well in its business
6 activities and it is expected to do even better by the time
7 the year ends this coming December based on current demand for
8 helicopters owned by Wilma's Flight Services, Inc.

9 Personnel matters were also discussed and it was
10 agreed that additional pilots and mechanics may need to be
11 hired based in the increasing demand for helicopters. There
12 was a specific discussion held as to the need for Wilma's
13 Flight Services, Inc. to open a general checking account at
14 Bank of Hawaii in order to receive lease deposits for leases
15 of helicopters where the lease income is generated in open
16 waters and is not considered U.S.-effectively connected
17 income. Given that Wilma's Flight Services, Inc. qualifies as
18 the active NFFE per the form W8BENE, and given that there is
19 no U.S.-source income generated by Wilma's Flight Services,
20 Inc., as such, there should be no problem opening the bank
21 account at Bank of Hawaii.

22 It was unanimously agreed to open this account at
23 Bank of Hawaii. It was further agreed that effective
24 immediately, the following are appointed to be officers of the
25 corporation as follows: President, Mr. Jon D. Walker; Vice

1 President, Mr. Phillip T. Kapp; Secretary-Treasurer,
2 Mr. Kenneth R. Crowe. As there was no further business to be
3 discussed, the chairman moved to adjourn the meeting.

4 Signed as true record of the meeting, President and
5 Director, Jon D. Walker, signs it, Kenneth R. Crowe, Vice
6 President, Secretary and Director signs it."

7 Q. Are you aware of the requirement of this type of a
8 letter at Bank of Hawaii for a foreign corporation to open an
9 account at Bank of Hawaii at this particular time?

10 A. I am aware that the banks do require certain
11 documents to open an account; yes.

12 Q. And you saw -- you see the statement, "is not
13 U.S.-effectively connected income," that's a requirement to
14 open an account by the foreign corporation; correct?

15 A. Are we talking about this specific document?

16 Q. That point in time, the requirement that was to
17 assure that the income being deposited, the Bank of Hawaii,
18 was not U.S.-effectively connected income, it had to be
19 certification by your board, up to that effect?

20 A. That's incorrect.

21 Q. Well, you know whether Bank of Hawaii required this
22 letter in this format in order to open the account?

23 A. The bank did require these kind of documents to open
24 corporate accounts; that's correct.

25 Q. And what is active NFFE mean per that form, W8BENE?

1 A. I'm sorry, I don't recall. 01:55PM

2 Q. Okay. Now this would be one of the banks official 01:55PM
3 records that you would have subpoenaed back in 2018; correct? 01:55PM

4 A. It might have been before that time; yes. 01:56PM

5 Q. You subpoenaed all the banks records which should 01:56PM
6 have included this particular document; correct? 01:56PM

7 A. It should have been provided, if it was a bank 01:56PM
8 document; yes. 01:56PM

9 Q. So you should have known back in 2017 that Wilma's 01:56PM
10 Flight Service, Inc., a foreign corporation, had money in the 01:56PM
11 Bank of Hawaii that was generated from lease income from tuna 01:56PM
12 boats; correct? 01:56PM

13 A. U.S. income. 01:56PM

14 Q. It generated income. Whether it's U.S. or not, 01:56PM
15 that's not subject to this case, is it, sir? 01:56PM

16 A. But you're asking me about U.S. income, if it was 01:56PM
17 U.S. income. 01:56PM

18 Q. Well, I misspoke, I'm sorry. This particular letter 01:56PM
19 should have been -- 01:56PM

20 MS. M. MILLER: Your Honor, I'm confused. 01:56PM

21 MR. MCCONWELL: I am too. Could we read back? 01:56PM

22 It's late in the day. We've had too long a day. We can start 01:57PM
23 again here. 01:57PM

24 THE COURT: Okay. Start again. 01:57PM

25 BY MR. MCCONWELL: (CONTINUING) 01:57PM

1 Q. I think we've established that this letter should 01:57PM
2 have been produced to you -- 01:57PM

3 THE COURT: Okay, we have like three minutes 01:57PM
4 before the next break. So I'm going to get back on track, so 01:57PM
5 at 2:00, we'll take a recess and then you guys can get 01:57PM
6 unconfused. Go ahead. 01:57PM

7 BY MR. MCCONWELL: (CONTINUING) 01:57PM

8 Q. Okay. So this document should have been the 01:57PM
9 information you got from the bank; correct? 01:57PM

10 A. Right. 01:57PM

11 Q. Okay. 01:57PM

12 A. Correct. 01:57PM

13 Q. And part of the information you utilized in your 01:57PM
14 assessment of this wrongful transfer of money back and forth? 01:57PM

15 A. It's the transfer -- it's wire fraud, it's the -- so 01:57PM
16 the question is? 01:57PM

17 Q. Is it illegal for a company to transfer money that 01:57PM
18 it's earned through lease income, lawfully-earned lease 01:57PM
19 income? 01:57PM

20 A. That's incorrect. 01:57PM

21 Q. Well, explain why that's not correct. 01:58PM

22 A. Because the money involved in this case involves the 01:58PM
23 misrepresentations made to the tuna boat companies as it 01:58PM
24 relates to the helicopters, and the airmen that are not FAA 01:58PM
25 certificated. 01:58PM

1 MR. MCCONWELL: Now, I move to strike that. It 01:58PM
2 was totally nonresponsive, even though I left it a little bit 01:58PM
3 open. It was a speech, a narrative. 01:58PM

4 THE COURT: Well, he answered the question. 01:58PM

5 MR. MCCONWELL: He got me. We'll take care of 01:58PM
6 that then. 01:58PM

7 MS. M. MILLER: Your Honor, that's the problem 01:58PM
8 is, the question is open-ended. Then he responds accordingly 01:58PM
9 -- 01:58PM

10 THE COURT: I'm not going to -- yup, strike, go 01:58PM
11 ahead. Proceed. 01:58PM

12 BY MR. MCCONWELL: (CONTINUING) 01:58PM

13 Q. Okay. There is nothing illegal about wire 01:58PM
14 transferring from one bank to another income that was lawfully 01:58PM
15 earned from lease income to buy a tuna -- from a tuna boat; 01:58PM
16 correct? 01:58PM

17 A. Are we talking about this case? 01:58PM

18 Q. I'm talking about in general, period. 01:58PM

19 A. So we're not talking about this case? 01:58PM

20 Q. I'm -- I asked you a general question, and I'm asking 01:58PM
21 you to give me a general answer. 01:59PM

22 MS. M. MILLER: Your Honor, I object as to 01:59PM
23 relevance. 01:59PM

24 THE COURT: Overruled. General question. 01:59PM

25 THE WITNESS: In general, not related to this 01:59PM

1 case, there is no problems with moving money among banks, it's
2 just inefficient.

3 BY MR. MCCONWELL: (CONTINUING)

4 Q. If it's lawfully-earned income, there is no problem
5 about moving money around by Jon Walker from one account to
6 another that he owns, that clearly identified where the money
7 is going, there is nothing wrong with that, is there?

8 A. Are we talking about Jon Walker?

9 Q. I said if it's lawfully owned by -- earned by Jon
10 Walker, there is nothing -- or his companies that he's been
11 involved with, there is nothing wrong with moving that money
12 around at his direction to different banks of the company, and
13 when transactions are totally open, there is nothing hidden
14 here? Nothing unlawful?

15 THE COURT: That's a hypothetical question there,
16 Agent.

17 MS. M. MILLER: Well, Your Honor, I'm going to
18 object because I was not permitted to ask any hypothetical
19 questions.

20 THE COURT: Overruled. Overruled. Go ahead,
21 answer the question. He just gave you one.

22 THE WITNESS: That's completely incorrect as it
23 relates to this case because it's all based upon the
24 misrepresentations --

25 MR. MCCONWELL: I move to strike. Ask him to

1 answer the question as proposed to you, sir. 02:00PM

2 THE COURT: The question as proposed to you. 02:00PM

3 THE WITNESS: Okay. So -- 02:00PM

4 THE COURT: He said -- he already gave you the 02:00PM

5 hypothetical. 02:00PM

6 THE WITNESS: The hypothetical, not related to 02:00PM

7 any of the evidence that I looked at? 02:00PM

8 THE COURT: Well, okay, just whatever -- just the 02:00PM

9 hypothetical, period. 02:00PM

10 THE WITNESS: I'm sorry, the accounting side -- 02:00PM

11 THE COURT: You're adding -- no, no, no, you're 02:00PM

12 adding to the question. You're not supposed to add to the 02:00PM

13 question. The hypothetical as propounded by the attorney, 02:00PM

14 what's your answer? Do you have an answer? 02:00PM

15 THE WITNESS: I don't have an answer. Maybe I 02:00PM

16 need to hear it one more time. 02:00PM

17 THE COURT: Again? 02:00PM

18 THE WITNESS: Yeah. 02:00PM

19 THE COURT: Okay. Let me see. Let Veronica ask 02:00PM

20 the question, before we take our next recess. 02:00PM

21 (Whereupon the reporter read back requested 02:01PM

22 portion.) 02:01PM

23 THE WITNESS: And this is purely a hypothetical, 02:01PM

24 not -- as a hypothetical, if it truly was lawful income, as a 02:01PM

25 hypothetical, moving around between bank accounts, as a 02:01PM

Cross - Khamvongsa

1 hypothetical, for a legitimate business reason, as a 02:01PM
2 hypothetical, then there is hypothetically nothing wrong with 02:01PM
3 it. 02:01PM

4 (Laughter in courtroom.) 02:01PM

5 THE COURT: Okay. You got the answer to the 02:01PM
6 question. 02:01PM

7 BY MR. MCCONWELL: (CONTINUING) 02:01PM

8 Q. It's a hypothetical answer -- let me ask one more. 02:01PM

9 THE COURT: Go ahead. 02:02PM

10 BY MR. MCCONWELL: (CONTINUING) 02:02PM

11 Q. You responded to Ms. Marie Miller's question about 02:02PM
12 the money, the operation of the money that you had analyzed 02:02PM
13 from this being wired around. That you -- you answered -- I 02:02PM
14 believe you answered that that money came from the operation 02:02PM
15 of the helicopters pursuant to the lease as the source of the 02:02PM
16 funds that you seized; correct? 02:02PM

17 A. To the wire fraud, the money came from leasing the 02:02PM
18 helicopters to the tuna boats, which were fraudulent. 02:02PM

19 Q. That's your opinion, and that's the issue of what 02:02PM
20 we're here for, to decide whether they're fraudulent or not. 02:02PM
21 That's not for you to decide, is it, sir? 02:02PM

22 A. You're right. It's for the jury to decide. 02:02PM

23 MR. MCCONWELL: Probably a good time to break. 02:02PM

24 THE COURT: I think so. All right. It's -- 02:02PM
25 okay, ladies and gentlemen, we'll see you in 15 minutes. 02:02PM

1 Please rise for the jury. Keep an open mind. 02:02PM

2 (Jury out at 2:03 p.m.) 02:03PM

3 THE COURT: How much longer do you think you 02:03PM

4 have, Mr. McConwell, with this witness? 02:03PM

5 MR. MCCONWELL: Probably not too much, maybe 30 02:03PM

6 or 40 minutes. I'll try to do better. 02:03PM

7 THE COURT: That's fine. I'm not rushing you. I 02:03PM

8 just wanted to know. 02:03PM

9 MR. MCCONWELL: I got some other documents I can 02:03PM

10 pull out at the break. 02:03PM

11 THE COURT: If there is if new or additional 02:03PM

12 documents, why don't you pass. 02:03PM

13 MR. MCCONWELL: They were previously identified. 02:03PM

14 THE COURT: Oh, they've already -- 02:03PM

15 MR. MCCONWELL: Well, in general, we haven't set 02:03PM

16 for this cross-examination. We didn't know what he was going 02:03PM

17 to be talked about for sure but -- we'll get them -- I'll give 02:03PM

18 them the numbers. 02:03PM

19 THE COURT: Yeah, yeah, if you give -- if you -- 02:03PM

20 if they've already been marked and identified? 02:03PM

21 MR. MCCONWELL: They're identified in our trial. 02:03PM

22 Pretrial stuff. 02:03PM

23 THE COURT: All right. So just work it out so we 02:03PM

24 don't have to take time during the testimony. 02:03PM

25 MR. MCCONWELL: I will, Your Honor. 02:03PM

1	THE COURT: All right. Thank you. All right.	02:03PM
2	I'll see you all in shortly. Yeah, 15 minutes.	02:03PM
3	THE WITNESS: Thank you, Your Honor.	02:03PM
4	THE COURT: Yeah, thank you.	02:04PM
5	(Recess taken at 2:04 p.m.)	02:04PM
6	(Back on the record at 2:21 p.m.)	02:21PM
7	(Pause.)	02:27PM
8	THE COURT: Are we ready?	02:28PM
9	MR. MARTIN: Ms. McConwell is looking for some of	02:28PM
10	the exhibits. She put them somewhere, Judge.	02:28PM
11	THE COURT: Did you give them to the prosecution,	02:28PM
12	Mr. McConwell? Your listing?	02:28PM
13	MS. M. MILLER: I'm sorry, Your Honor?	02:28PM
14	THE COURT: I'm just asking.	02:28PM
15	MR. MARTIN: She did not give them.	02:28PM
16	MS. M. MILLER: She did not.	02:28PM
17	THE COURT: Oh, okay.	02:28PM
18	MS. M. MILLER: I think she's got the hard copies	02:28PM
19	there.	02:28PM
20	THE COURT: Right. She didn't give it to you.	02:28PM
21	All right. Before we call in the jury in here.	02:28PM
22	MR. MCCONWELL: I think I'm back online here.	02:29PM
23	THE COURT: So 30 to 40 minutes and then,	02:29PM
24	Mr. Martin, are you going to cross-examine the witness?	02:29PM
25	MS. M. MILLER: Ms. McConwell, do you have a	02:29PM

1 copy?

02:29PM

2 MR. MARTIN: At least 1 or 2 questions, Judge.

02:29PM

3 THE COURT: That's it?

02:29PM

4 MR. MARTIN: Probably 3 or 4.

02:29PM

5 THE COURT: Maybe 5 or 6. 10 or 11.

02:29PM

6 MS. M. MILLER: You don't have to put stickers on
7 them, I could just write numbers on them.

02:29PM

8 MR. MCCONWELL: Get the official one.

02:29PM

9 THE COURT: Oh, wow, I like the cooperation.

02:29PM

10 MS. M. MILLER: I try to be cooperative, Your
11 Honor.

02:29PM

12 MS. MCCONWELL: I'm the low girl on the totem
13 pole.

02:29PM

14 THE COURT: You're the low girl? You're the high
15 girl on the totem pole. Appearances can be deceiving. Okay.

02:29PM

16 THE WITNESS: Your Honor, have you ever thought
17 about doing karaoke in the courtroom?

02:30PM

02:30PM

18 THE COURT: What's that?

02:30PM

19 THE WITNESS: Have you ever thought about doing
20 karaoke in the courtroom?

02:30PM

02:30PM

21 THE COURT: I think --

02:30PM

22 THE WITNESS: I think it could be kind of fun. I
23 mean, off hours.

02:30PM

02:30PM

24 THE COURT: Ask Stacy? You know Stacy.

02:30PM

25 THE WITNESS: I haven't.

02:30PM

1 THE COURT: My community outreach. 02:30PM

2 THE WITNESS: Oh. 02:30PM

3 THE COURT: You know she's the one that puts 02:30PM
4 everything together. Should ask her to do that for law week. 02:30PM

5 THE WITNESS: That would be kind of fun. 02:30PM

6 THE COURT: Yeah. It might be, I don't know. I 02:30PM
7 don't know about my voice, I don't have a good voice. 02:30PM

8 THE WITNESS: It's karaoke, not American Idol. 02:30PM

9 Are we ready to go then? 02:31PM

10 MS. MCCONWELL: We are. 02:31PM

11 THE COURT: Mr. McConwell, you ready, sir? 02:31PM

12 MR. MCCONWELL: Yes, ma'am. 02:31PM

13 THE COURT: Okay, we'll call in the jury. And so 02:31PM
14 will we be done with this witness today, Counselors? If it's 02:31PM
15 really going to be 30 minutes with continuation with 02:31PM
16 Mr. McConwell and then Mr. Martin, by 4:00 p.m.? 02:31PM

17 MR. MARTIN: We'll do everything we can to make 02:31PM
18 that happen, Judge. 02:31PM

19 THE COURT: All right. And then who's the next 02:31PM
20 witness up? 02:31PM

21 MS. MCCONWELL: I believe Mr. Guzzetti. 02:31PM

22 THE COURT: Guzzetti, okay. I think I have -- 02:31PM
23 all right. So there is a pending summary chart motion from 02:32PM
24 last week. So I'll hear that tomorrow after Court at 4. I 02:32PM
25 have a 5:00 meeting tomorrow morning, a.m., 7:00 a.m. motion 02:32PM

1 for compassionate release. So let's see, it will be ECF No.
2 1628. That's what we'll hear tomorrow. Okay.

3 MS. MCCONWELL: At 4.

4 THE COURT: At 4:00 p.m. after we're done.

5 (Jury in at 2:32 p.m.)

6 THE COURT: Okay. That's a motion for summary --
7 there's another motion for summary chart I haven't looked at,
8 that was this morning, but the ones from last week, I'm going
9 to hear, you guys already briefed that. So we'll hear that
10 tomorrow at 4 after the jury leaves.

11 All right. Please be seated. Welcome back,
12 ladies and gentlemen of the jury. All right, Mr. McConwell,
13 you may continue on with your cross-examination, sir.

14 MR. MCCONWELL: Thank you, Your Honor.

15 THE COURT: Uh-huh.

16 BY MR. MCCONWELL: (CONTINUING)

17 Q. Let's take a look at Exhibit 133, please. 134 also
18 and 135. Just look at them all together. Did you receive
19 these letters in your subpoena from the Bank of Hawaii, sir?

20 A. I do not recall seeing these documents until now.

21 Q. These documents dated June 25, 2018, I believe you
22 were critical of the companies for moving accounts at this
23 timeframe in the July 2013 -- or '18 timeframe; correct?

24 A. I did say moneys was moved to -- during this
25 timeframe; yes.

1 Q. And that was to Community Bank and Limey was the -- 02:34PM
2 Limey Air Service, Inc., I think, was the bank name for that 02:34PM
3 account; correct? 02:34PM

4 A. That was one of a few; yes. 02:34PM

5 Q. Okay. And Wilma's Flight Services also removed its 02:34PM
6 money from the Bank of Hawaii, same time; correct? 02:34PM

7 MS. MCCONWELL: Excuse me, I believe these are 02:34PM
8 admitted, aren't they? 02:34PM

9 MR. MCCONWELL: They had no objection, I thought. 02:35PM

10 THE COURT: All right. 02:35PM

11 MS. MCCONWELL: We need them published. 02:35PM

12 MR. MCCONWELL: Oh, I'm sorry. 02:35PM

13 THE COURT: Oh, you want it published? 02:35PM

14 MR. MCCONWELL: We want -- 02:35PM

15 BY MR. MCCONWELL: (CONTINUING) 02:35PM

16 Q. Now, this is a letter from the Bank of Hawaii, right 02:35PM
17 after your subpoena, right after the indictment telling 02:35PM
18 Wilma's and the other corporations associated with Hansen 02:35PM
19 Helicopters, Inc. to get their money out of the bank within 02:35PM
20 30 days; correct? 02:35PM

21 A. If you give me time, I could review it because I 02:35PM
22 don't -- 02:35PM

23 Q. Why don't you take a moment and read it then. 02:35PM

24 A. Okay. Thank you. 02:35PM

25 Q. Let me ask you before you do that, let me say one 02:35PM

1 more thing, this is a document that should have been produced
2 to you in response to your subpoena; correct?

3 MS. M. MILLER: Objection, Your Honor;
4 speculation.

5 THE COURT: Overruled.

6 THE WITNESS: At the time that I issued the
7 subpoena, it was before this particular date.

8 BY MR. MCCONWELL: (CONTINUING)

9 Q. Did you get ongoing production from the bank after
10 the particular date -- initial date of the subpoena?

11 A. From Bank of Hawaii?

12 Q. Yes.

13 A. I don't recall as it relates to these documents here.

14 Q. Okay. Take a look at the first document, 133, if you
15 would, sir.

16 MR. MCCONWELL: I'm sorry, Laura, I don't have a
17 number on that.

18 BY MR. MCCONWELL: (CONTINUING)

19 Q. Anyway, this particular document, take a look at it.
20 This document is 134; is that correct?

21 A. Oh, I'm sorry. I was reading the hard copies.

22 Q. But we marked it 134. Somehow it was unmarked?

23 A. Actually, this is pertaining to Wilma's and it's
24 identified... it's identified as Defendant's Exhibit 132.

25 Q. Okay. All right. So it's a fair statement to say

1 that the banks told them to get their money out of the bank 02:37PM
2 within 30 days or they'll find someplace to put it? 02:37PM

3 A. Yes, this is -- can I read it? Do you want me to 02:37PM
4 read it? 02:37PM

5 Q. If you'd like, yeah? 02:37PM

6 A. Out loud? 02:37PM

7 Q. Yes. 02:37PM

8 A. Sure. I'll start with "Dear sir." Is that all 02:37PM
9 right? 02:37PM

10 Q. That's fine. 02:37PM

11 A. "Dear sir, we have conducted a review of our customer 02:37PM
12 accounts and transaction history and have determined that we 02:38PM
13 will no longer be able to service your account. This letter 02:38PM
14 will serve as a notice of our intent to terminate the account 02:38PM
15 listed above, collectively the account, on July 31st, 2018, 02:38PM
16 pursuant to the business deposit account agreement governing 02:38PM
17 the account. We believe this will provide you with sufficient 02:38PM
18 time to make other arrangements to meet your financial needs. 02:38PM
19 In conjunction with this closure, any debit cards attached to 02:38PM
20 your account will be blocked from further transactions five 02:38PM
21 business days prior to the closure date identified above. You 02:38PM
22 may voluntarily close your account prior to July 31st, 2018, 02:38PM
23 by visiting one of our branches. If you do not do so by 02:38PM
24 August 7th, 2018, a check in the amount of any funds remaining 02:38PM
25 in your account will be sent to your last address of record. 02:38PM

Cross - Khamvongsa

1 If you have any questions concerning this matter, please feel
2 free to contact me at the number below, sincerely, Brian
3 Bliss, Vice President, Guam Commercial."

4 Q. And this was at a time there were millions of dollars
5 coming into the account for lease payments and moneys for
6 payments for obligations of the various companies; correct?

7 A. This is the time after the indictment.

8 Q. After the indictment?

9 A. Yes, this is the time after the indictment.

10 Q. So this was a pretty hectic time for them to have to
11 find a bank to handle this amount of money that quickly;
12 correct?

13 A. I don't know about hectic.

14 Q. Difficult though?

15 A. I don't know their state of mind.

16 Q. Okay. Take a look at Exhibit 136, if you would, sir.

17 THE COURT: You have a copy of this, Ms. Marie
18 Miller, 136?

19 MR. MCCONWELL: I believe they've got it.

20 MS. M. MILLER: He did, Your Honor.

21 THE COURT: Okay. Go ahead.

22 BY MR. MCCONWELL: (CONTINUING)

23 Q. Take a look at this, and tell us what this is.

24 MR. MCCONWELL: First of all, there was no
25 objection to this.

1 THE COURT: Is there any objection to 136? 02:40PM

2 MS. M. MILLER: No, Your Honor. 02:40PM

3 THE COURT: All right. Ladies and gentlemen, 136 02:40PM

4 will be admitted without objection. Yes, you may produce it. 02:40PM

5 Project it. Present it. 02:40PM

6 (Exhibit 136 admitted.) 02:40PM

7 THE COURT: Publish it, I'm sorry. I'm trying to 02:40PM

8 find the right word. Publish it. 02:40PM

9 BY MR. MCCONWELL: (CONTINUING) 02:40PM

10 Q. Did you have a chance to look at it, sir? 02:40PM

11 A. Yes. 02:40PM

12 Q. Does this help you recall whether there was a bona 02:40PM

13 fide company Williams[sic] Flight Service, Inc., incorporated 02:40PM

14 in Vanuatu, July 1st 2002? 02:40PM

15 A. That's incorrect. 02:40PM

16 Q. That's the date of its constitution though; correct? 02:40PM

17 A. Specifically that's the date of this constitution, 02:41PM

18 July 1, 2002. 02:41PM

19 Q. Okay. And you have no reason to believe that there 02:41PM

20 was another Wilma's Flight Services in fact incorporated that 02:41PM

21 handled money for -- during the time period of your analysis; 02:41PM

22 correct? 02:41PM

23 A. I have no evidence of another... 02:41PM

24 Q. Just this company, Wilma's, and the one that was 02:41PM

25 terminated in 2008; correct? 02:41PM

1 A. This is the first time I've seen this -- this
2 particular; yes.

3 Q. Okay. Let's take a look now at Exhibit 76.

4 THE COURT: 76?

5 MR. MCCONWELL: Yes.

6 THE COURT: Has that been admitted or no
7 objection?

8 MS. M. MILLER: I don't even know what it is.

9 MR. MCCONWELL: It's an insurance policy, the
10 Caledonian Insurance policy.

11 THE COURT: Did you get a copy of that?

12 MS. M. MILLER: Yes.

13 THE COURT: Oh, you want to look at that?

14 MS. M. MILLER: I would like to, Your Honor, and
15 then I'll let you know if I have any objections.

16 THE COURT: Okay. Right. Hold on.

17 Are you wanting to publish this, Mr. McConwell?

18 MR. MCCONWELL: Yes, Your Honor.

19 THE COURT: Give her a second to review it.
20 Exhibit 76.

21 MS. M. MILLER: I don't see it. It's not on the
22 screen. I can't review it.

23 MS. MCCONWELL: Oh, I'm sorry.

24 THE COURT: 76.

25 MS. M. MILLER: It's 32 pages, Your Honor. So

1 I'm going to need sometime to review it before I can let you
2 know if I have any objections or not.

3 THE COURT: Go ahead.

4 MS. M. MILLER: Do you have a hard copy, Ms.
5 McConwell?

6 MS. MCCONWELL: No. I don't have an additional
7 because this is one of our exhibits on our exhibit list.

8 We gave you hard copy, a binder of our exhibits.

9 MS. M. MILLER: It will be faster if I do that,
10 if I review it.

11 MS. MCCONWELL: Here you go.

12 MS. M. MILLER: Thanks. It's 76?

13 MS. MCCONWELL: Yeah.

14 (Counsel conferred.)

15 MS. M. MILLER: I have no objection, Your Honor.

16 THE COURT: Ladies and gentlemen of the jury,
17 Exhibit 76 will be admitted without objection and, yes, you
18 may publish what you need to, Mr. McConwell.

19 (Exhibit 76 admitted.)

20 MR. MCCONWELL: Thank you, Your Honor. Let's do
21 the first page.

22 BY MR. MCCONWELL: (CONTINUING)

23 Q. First of all, you indicated earlier you had seen the
24 insurance policy that -- issued by Caledonian; correct?

25 A. I've seen some insurance policies.

1 Q. All right. This particular document starts out with
2 Bean Bag. Would you read the first four lines there for me?

3 A. Do you want me to start at the insurance effected and
4 go down?

5 Q. Yes.

6 A. Okay, sure. "This insurance effected and provided
7 for Bean Bag Helicopters, Inc., PMB9102 Lini Highway, Port
8 Vila, Vanuatu, South Pacific and the following wholly-owned
9 subsidiary companies."

10 Q. Now go down to the bottom, if you would, of that
11 page, or under Wilma's. Read the last line.

12 A. Port Vila, Vanuatu.

13 Q. No, the last -- the Vanuatu companies.

14 A. Oh, the last line -- okay. Wilma's Flight Services,
15 Inc.

16 Q. And then keep on going, please.

17 MR. MCCONWELL: Let's go down to the list of
18 aircraft, Laura. It's about 4 or 5 pages, I think. Oh, it
19 says schedule of aircraft on page 4.

20 BY MR. MCCONWELL: (CONTINUING)

21 Q. Can you tell us what this is?

22 A. A list of U.S.-registered helicopters, as well as
23 Philippine-registered helicopters and New Zealand-registered
24 helicopters.

25 Q. At that time, these helicopters were on the registry

1 of the United States; correct?

02:48PM

2 A. The U.S.-registered ones were on the FAA registry.

02:48PM

3 Q. Okay. And those are the ones that were owned by the
4 Vanuatu companies earlier identified in the said policy;
5 correct?

02:48PM

02:48PM

02:49PM

6 A. They are identified in this policy.

02:49PM

7 MR. MCCONWELL: Okay. Keep on going, please.
8 Let's go to Exhibit 77 now. And I'll move this into evidence,
9 Your Honor.

02:49PM

02:49PM

02:49PM

10 THE COURT: It's already been admitted. 76 is
11 admitted.

02:49PM

02:49PM

12 MR. MCCONWELL: Yes, thank you. Exhibit 77.

02:49PM

13 THE COURT: Has that been admitted already?

02:49PM

14 MR. MCCONWELL: Not yet. We'll need to identify
15 it.

02:49PM

02:49PM

16 THE COURT: Does prosecution have a copy of this?

02:49PM

17 MR. MCCONWELL: It was produced to them earlier.

02:49PM

18 MS. M. MILLER: I have it, Your Honor.

02:49PM

19 THE COURT: She has it now. Very well.

02:49PM

20 MS. M. MILLER: Your Honor, I'm going to object
21 to the admissibility of this document on the basis of a lack
22 of foundation. It is a document that was prepared by a
23 company that has not been -- there is no way to determine
24 whether this document is accurate or inaccurate. There has
25 been no foundation for its admissibility.

02:52PM

02:52PM

02:52PM

02:52PM

02:52PM

02:52PM

1 MR. MCCONWELL: It's a business record of the 02:52PM
2 companies, Your Honor, prepared by the registered agent, but 02:52PM
3 if we have to have a foundation witness, I guess we'll have to 02:52PM
4 do that. 02:52PM

5 THE COURT: Okay. 02:52PM

6 MS. M. MILLER: I'm sorry. So he's withdrawing 02:52PM
7 it until he has a foundation witness to bring it in? 02:52PM

8 MR. MCCONWELL: I haven't offered it yet. 02:53PM

9 THE COURT: I think he's thinking about it. 02:53PM

10 MS. M. MILLER: He's thinking about it, okay. 02:53PM

11 THE COURT: Yeah. 02:53PM

12 MR. MCCONWELL: And I do have an Exhibit 72 also. 02:53PM

13 THE COURT: I'm sorry. Exhibit 72? Is that what 02:53PM
14 you said? 02:53PM

15 MR. MCCONWELL: Yes. 02:53PM

16 THE COURT: Okay. Exhibit 72. So take out the 02:53PM
17 other one. 72. 02:53PM

18 Prosecution, can you see that? 02:53PM

19 MS. M. MILLER: Yes, Your Honor. 02:53PM

20 THE COURT: You're trying to move to admit this, 02:53PM
21 Mr. McConwell? 02:53PM

22 MR. MCCONWELL: Yes, Your Honor. 02:53PM

23 THE COURT: Is that just a one-page certificate? 02:53PM

24 MR. MCCONWELL: Yes, one-page certificate. 02:53PM

25 THE COURT: Any objections? 02:53PM

1 MS. M. MILLER: Yes, Your Honor. Same objection,
2 lack of foundation.

3 MR. MCCONWELL: Again, we can have somebody from
4 the corporation to identify it as a business record of the
5 company if that's necessary.

6 MS. MCCONWELL: Well, I thought business records
7 of the Defendants were something that we weren't going to
8 object to foundation and require those types of foundational.

9 THE COURT: Did you guys stipulate to that?

10 MS. M. MILLER: No.

11 MR. MCCONWELL: We stipulated they could do that
12 with things that were produced, but it's not reciprocal
13 apparently.

14 THE COURT: If you stipulated to it, then of
15 course it's going to be allowed.

16 MR. MCCONWELL: I can't tell you the exact terms
17 of it, but I anticipated it would not be objected to, but
18 we'll deal with it.

19 THE COURT: Okay. All right. Next question?

20 MR. MCCONWELL: Let's take that off, please.

21 THE COURT: Okay.

22 BY MR. MCCONWELL: (CONTINUING)

23 Q. There has been discussion, Mr. Khamvongsa, about the
24 shell companies. Can you tell us what a shell company is in
25 your view?

1 A. Are we talking hypothetical or in this case? 02:54PM

2 Q. Hypothetically. 02:54PM

3 A. Hypothetically, a shell corporation may be used to 02:54PM
4 limit the liability of an asset or something of that nature. 02:55PM
5 It exists primarily in name, it's not -- it's not really 02:55PM
6 generating any income or has any employees. 02:55PM

7 Q. But it has assets in the form of, for example, the 02:55PM
8 boats; companies have 3 or 4 subsidiary companies that you 02:55PM
9 could call shell companies, couldn't they? 02:55PM

10 A. Are we talking about the tuna boat companies? 02:55PM

11 Q. Yes, sir. 02:55PM

12 A. Well, and hypothetically speaking? 02:55PM

13 Q. Yes, sir. 02:55PM

14 A. Well, hypothetically, a shell company or corporation 02:55PM
15 could own boats for tuna spotting or tuna fishing. 02:55PM

16 Q. Well, hasn't that been done on 3 or 4 of the boat 02:55PM
17 companies that you went through yesterday when you went 02:55PM
18 through the billing? You had sub -- boats, different LLCs, 02:55PM
19 but the primary boat company was also included? 02:55PM

20 A. They were -- they appear to be subsidiaries of 02:55PM
21 fishing companies. They didn't appear to be shell 02:56PM
22 corporations, per say. 02:56PM

23 Q. Well, they appear to be LLCs, that's a corporate type 02:56PM
24 of device, isn't it, sir? 02:56PM

25 A. They appear to be LLCs? Is that what you asked? 02:56PM

1 Q. Yes.

02:56PM

2 A. I do recall -- there are LLCs on the documents that I
3 reviewed.

02:56PM

02:56PM

4 Q. And that would be the same thing as a shell company
5 to hold aircraft under Bean Bag; correct?

02:56PM

02:56PM

6 A. That's not correct. If we're talking about Bean Bag.

02:56PM

7 Q. Well, isn't it true that the use of shell companies,
8 calling them shell companies, is a common practice in the
9 aviation industries to hold the title to aircraft that are
10 registered in the United States?

02:56PM

02:56PM

02:56PM

02:56PM

11 A. It's not true to the facts in this case.

02:56PM

12 Q. Isn't it true that it's a common practice for
13 aircraft registered in the United States for companies to use
14 a subsidiary shell company, that they call them, to hold the
15 title and register the aircraft?

02:56PM

02:57PM

02:57PM

02:57PM

16 A. Is this a general question? Or are we talking about
17 the facts as it relates to this case?

02:57PM

02:57PM

18 Q. A general practice in the aviation industry
19 recognized by the United States government as a legitimate
20 practice?

02:57PM

02:57PM

02:57PM

21 A. My knowledge is only as it relates to the evidence I
22 reviewed in this case, and what's reflected in the evidence.

02:57PM

02:57PM

23 Q. You know what the Government Accounting Office is,
24 sir, of the United States?

02:57PM

02:57PM

25 A. The Government Accounting Office?

02:57PM

1 Q. The GAO?

02:57PM

2 A. I'm aware of it.

02:57PM

3 Q. Are you aware that the GAO has reported that --

02:57PM

4 MS. M. MILLER: Objection, Your Honor. I'm going
5 to object because the government filed a motion in limine to
6 exclude the GAO report that Mr. McConwell is attempting to
7 talk about, and the judge granted that motion in limine and
8 Mr. McConwell knows it.

02:57PM

02:57PM

02:57PM

02:58PM

02:58PM

9 MR. MCCONWELL: It's about a 90-page document,
10 Your Honor, and there is one particular page that does
11 directly relate to the question and we --

02:58PM

02:58PM

02:58PM

12 THE COURT: Does it relate to the report?

02:58PM

13 MR. MCCONWELL: Yes, but --

02:58PM

14 THE COURT: If it does --

02:58PM

15 MR. MCCONWELL: -- it relates directly to what
16 we're dealing with in this case.

02:58PM

02:58PM

17 MS. M. MILLER: Your Honor, you granted the
18 motion in limine to exclude that.

02:58PM

02:58PM

19 MR. MCCONWELL: Anyway, I'd like to offer it,
20 like the Court to look at it and review that, see if this is
21 within the Court's scope of the Court's order because I think
22 many more things involving that order --

02:58PM

02:58PM

02:58PM

02:58PM

23 THE COURT: Okay. We'll come back to that. Why
24 don't you go to another line of questioning, we'll come back
25 to that. So we can try to finish up what we can without

02:58PM

02:58PM

02:58PM

1 taking a recess.

2 BY MR. MCCONWELL: (CONTINUING)

3 Q. Isn't it true that the reason that shell companies
4 cause some concern is you need the ability to identify the
5 beneficial owner or ultimate owner of the corporation, that
6 needs to be done; correct?

7 A. It's true that the owner should be identified; yes.

8 Q. Or easily identifiable; correct?

9 A. Easily identifiable, transparency; yes.

10 Q. And Mr. Prozik, in his testimony, indicated that
11 Mr. Walker was easily identifiable as the owner of all of
12 these corporations, the ultimate beneficial owner, not the
13 individual specific owner of corporation by corporation?

14 MS. M. MILLER: Objection, Your Honor, Counsel is
15 misstating the testimony of Special Agent Prozik.

16 MR. MCCONWELL: I don't believe I am --

17 THE COURT: Okay. The Court will overrule the
18 objection. Do you recall that?

19 THE WITNESS: I don't recall Mr. Prozik saying
20 that.

21 THE COURT: All right. Next question.

22 MR. MCCONWELL: Okay. I have no further
23 questions after we resolve the GAO issue.

24 THE COURT: Okay, so can you get me -- okay, I
25 guess I need to get the proffer on that.

1 MR. MCCONWELL: It's Exhibit -- 02:59PM

2 MS. M. MILLER: Yes, the government would need 02:59PM
3 the proffer on that as well, obviously outside the presence of 02:59PM
4 the jury. 02:59PM

5 MR. MCCONWELL: 64-A. 02:59PM

6 THE COURT: Hold on. Hold on. Wait. Wait. 02:59PM
7 Just a minute. What, Mr. McConwell? 02:59PM

8 MR. MCCONWELL: It's Exhibit 64-A, and we've 03:00PM
9 given it to the government. 03:00PM

10 THE COURT: 64-A. Let's pull up 64-A somebody. 03:00PM
11 Pull it up and zoom in on what you want me to look at it. 03:00PM
12 Okay. 03:00PM

13 MR. MCCONWELL: I'm sorry, 66-A. 03:00PM

14 THE COURT: Okay. 66-A, that's fine. 03:00PM

15 MS. M. MILLER: Your Honor, the whole report is 03:00PM
16 in this -- 03:00PM

17 THE COURT: Hold on. Let's just see what he 03:00PM
18 wants -- I just want to look -- he's not going to talk about 03:00PM
19 it. 03:00PM

20 MS. M. MILLER: I don't have A is my point, I 03:00PM
21 only have the whole report. 03:00PM

22 THE COURT: Okay, so pull up -- let her pull up 03:00PM
23 what they have. Let's see what they're talking about. Maybe 03:01PM
24 you might have this. 03:01PM

25 MR. MCCONWELL: It will be about page 80 or 81. 03:01PM

1	We could do that.	03:01PM
2	THE COURT: Page 80 or 81.	03:01PM
3	MR. MCCONWELL: In that area.	03:01PM
4	THE COURT: Okay. The only thing is -- let me	03:01PM
5	just -- okay. Counsel, the Court does exclude the GAO report	03:01PM
6	so if you want to get anything from that report, the Court	03:01PM
7	will sustain that objection.	03:01PM
8	MR. MCCONWELL: In its entirety, but it was a	03:01PM
9	motion in limine, which I understood we could bring back up	03:01PM
10	and give the Court the opportunity to look at the particular	03:01PM
11	portion we wanted to --	03:02PM
12	THE COURT: I'm sorry. So can you repeat that?	03:02PM
13	What was --	03:02PM
14	MR. MCCONWELL: I understood in a motion in	03:02PM
15	limine that when you have a particular paragraph or statement	03:02PM
16	within a document, you can bring that back to the Court's	03:02PM
17	attention, and that's the purpose of giving you advance	03:02PM
18	notice.	03:02PM
19	THE COURT: Okay. Why don't we -- maybe we need	03:02PM
20	to look at what you're talking about. I'm not clear on that.	03:02PM
21	But let's just see what the deal is. Excuse me. Okay. Okay.	03:02PM
22	Is that it, Mr. McConwell? On the screen?	03:02PM
23	MS. M. MILLER: Is that the page?	03:02PM
24	MR. MCCONWELL: No, go over one more.	03:02PM
25	MS. M. MILLER: That's the page?	03:02PM

1 THE COURT: No, she said next page. What are you
2 looking at, which block there? First block?

3 MR. MCCONWELL: First of all, the block of
4 noncitizen corporation.

5 MS. M. MILLER: Objection to Counsel --

6 THE COURT: Just say first block.

7 MR. MCCONWELL: First block.

8 THE COURT: First block there?

9 MR. MCCONWELL: Right.

10 THE COURT: You're wanting to ask a question
11 about the first block?

12 MR. MCCONWELL: I want to have this document,
13 that portion, admitted into evidence.

14 THE COURT: That page?

15 MR. MCCONWELL: Yes, that page.

16 THE COURT: Or that block?

17 MR. MCCONWELL: Well, that block in particular,
18 yeah, that block --

19 THE COURT: The block that has three different
20 columns?

21 MR. MCCONWELL: Right.

22 THE COURT: All right. Okay. Hold on a second.

23 (Pause.)

24 After the prosecution reviews it, let me know if
25 you object to that block being admitted into evidence and

1 published to the jury.

2 MS. M. MILLER: Yes, Your Honor, and I have an
3 additional basis for the objection besides the fact that you
4 already granted our motion.

5 THE COURT: Okay. And what is the -- I'm sorry,
6 Mr. McConwell, this has already been excluded. Is there a
7 different basis in which to present this?

8 MR. MCCONWELL: I'm not sure, and I don't recall
9 this document being even totally considered in argument or in
10 total, it was just a blank document with certain portions
11 irrelevant, that's why I thought under the rules would be able
12 to bring it back --

13 THE COURT: If you're offering it under the void
14 ab initio theory, then the Court has excluded this.

15 MS. M. MILLER: And also, Your Honor, under our
16 motion in limine, Exhibit ECF 1013, which this Court granted,
17 ECF 1251.

18 THE COURT: Yes, I do have my ruling from the
19 bench at 1251. Mr. McConwell?

20 MR. MCCONWELL: Let me show you the next page
21 then.

22 THE COURT: Next page, okay.

23 MR. MCCONWELL: Make a record of it and we're --

24 THE COURT: So let's go to next page, and which
25 paragraph?

1 MR. MCCONWELL: Keep going, Laura. 03:05PM

2 THE COURT: Excuse me, which paragraph? 03:05PM

3 MR. MCCONWELL: We can start here, we have a few 03:05PM
4 more pages -- this page here, the entirety of this page. 03:05PM

5 THE COURT: Okay. That whole page? 03:05PM

6 MR. MCCONWELL: Right. That's page 85. 03:05PM

7 THE COURT: All right. 03:05PM

8 MR. MCCONWELL: Keep on going. And that page, 03:05PM
9 which is 86, and that entirety of that paragraph 3 which deals 03:05PM
10 specifically with what we are talking about. 03:05PM

11 THE COURT: Table 3? Next page is that right? 03:05PM

12 MR. MCCONWELL: That's it. And that's all. 03:05PM

13 THE COURT: Okay. And that's on page 6 -- 86 of 03:05PM
14 92? 03:05PM

15 MR. MCCONWELL: Well, it's actually in the 03:05PM
16 document page 81. 03:05PM

17 MS. MCCONWELL: Right. She's correct, it's 86 of 03:05PM
18 92. On Exhibit 66. 03:05PM

19 THE COURT: All right. Do you have any objection 03:05PM
20 to that, Prosecution? On that particular second page? 03:06PM

21 MS. M. MILLER: So just to be clear, he's asking 03:06PM
22 for the Court to admit page 80 of the document which is marked 03:06PM
23 as page 85 of his exhibit? 03:06PM

24 THE COURT: Yeah, it looks like page 85 and 86 of 03:06PM
25 92, he's requesting admission. 03:06PM

1 MR. MCCONWELL: That's correct. 03:06PM

2 THE COURT: Which is page 80 and 81 on the paper. 03:06PM

3 MS. M. MILLER: Got it. 03:06PM

4 MS. MCCONWELL: 84, 85, 86? Do you want two or
5 three pages? 03:06PM

6 MR. MCCONWELL: I think we have three pages,
7 actually. 03:06PM

8 THE COURT: So now you want -- you also want to
9 include page 84? So 84, 85, 86, which are 79, 80, and 81 of
10 the same -- it just has a different numbering system? 03:06PM

11 MR. MCCONWELL: Correct. 03:06PM

12 MS. M. MILLER: 84 we object to, Your Honor,
13 because of the fact that this Court has already ruled. 03:06PM

14 THE COURT: Okay. Page 85, any objections? 03:06PM

15 MS. M. MILLER: Page 85, I don't object to. 03:07PM

16 THE COURT: All right. 85 is admitted without
17 objection. 03:07PM

18 (Exhibit D-66-85 admitted.) 03:07PM

19 THE COURT: 86? 03:07PM

20 MS. M. MILLER: I'm reading it. 03:07PM

21 (Pause.) 03:07PM

22 MS. M. MILLER: Would that include page 87 of 92
23 as well? Because it wouldn't be complete if it didn't also
24 include 87. And if it includes both 86 and 87, I have no
25 objection. 03:07PM

1 THE COURT: All right. 03:07PM

2 MR. MCCONWELL: That's fine. 03:07PM

3 THE COURT: Very well. 86 and 87 are also 03:07PM

4 admitted, ladies and gentlemen of the jury. 84 will not be 03:07PM

5 admitted. 03:07PM

6 (Exhibit D-66A-86 to D-66A-87 admitted.) 03:07PM

7 THE COURT: So the others have been admitted 03:07PM

8 without objection. Anything further, Mr. McConwell? 03:07PM

9 MR. MCCONWELL: Um, yes, I do have a question. 03:07PM

10 Go back and look, if I could ask the -- let's publish this, if 03:07PM

11 we can? 03:08PM

12 THE COURT: Sure. You may publish it. You want 03:08PM

13 to go to page -- which page you want? 03:08PM

14 MR. MCCONWELL: 85 and -- 85 and 86. 03:08PM

15 THE COURT: Okay, 85. Pull that. 03:08PM

16 BY MR. MCCONWELL: (CONTINUING) 03:08PM

17 Q. Please, Mr. Khamvongsa, please read the actual text 03:08PM

18 of this paragraph? 03:08PM

19 THE COURT: Is that 85? 03:08PM

20 MR. MCCONWELL: It's on page 85, appendix four. 03:08PM

21 THE COURT: Okay. Is that right? Is that the 03:08PM

22 right page? Okay. 03:08PM

23 MS. M. MILLER: That is the right page, Your 03:08PM

24 Honor. 03:08PM

25 THE COURT: All right. Go ahead. 03:08PM

1 THE WITNESS: "Appendix four. Use of opaque
2 ownership structures for aircraft registration. Opaque
3 ownership structures are legitimate business structures that
4 are widely used by corporations and individuals to facilitate
5 commerce, as well as for asset and tax management; however,
6 the lack of transparency related to aircraft registrations
7 using opaque ownership structures also creates challenges for
8 safety and law enforcement investigators seeking information
9 about beneficial owners to support timely investigations.

10 The Financial Action Task Force, FATF, and other
11 international organizations have determined that beneficial
12 ownership information can be obscured through, among other
13 things, the use of shell companies which can be established
14 with various forms of ownership structures, especially in
15 cases where there is foreign ownership that is spread across
16 jurisdictions. Complex ownerships and control structures
17 involving many layers of shares registered in the name of
18 other legal entities; formal nominee shareholders and
19 directors where the identity of the beneficial owner is
20 undisclosed; trusts and other legal arrangements that enable a
21 separation of legal ownership and beneficial ownership of
22 assets; and use of intermediaries in forming legal entities
23 including professional intermediaries. Shell companies, one
24 the opaque ownership structures may be formed for legitimate
25 purposes to obtain financing prior to starting operations. In

1 the aircraft ownership context, shell companies may own
2 aircraft by holding title for registration purposes. However,
3 shell companies may also be used to conceal the beneficial
4 owner's identify for illicit purposes.

5 For example, according to Federal Aviation
6 Administration, FAA officials, some aircraft registrations
7 have stacked company ownership where shell companies own each
8 other. Such ownership arrangement can be used for illicit
9 purposes to conceal the identity of foreign- based beneficial
10 owners and create challenges for investigators, according to
11 law enforcement officials.

12 Further, shell companies may use a registered agent's
13 mailing address on the aircraft application forms, further
14 obscuring aircraft ownership information. Table 3 describes
15 the four opaque ownership structures, their legitimate uses
16 and how they can be vulnerable to abuse, according to our
17 illustrative case and intermediary research and interviews
18 with FAA and law enforcement officials.

19 Table 3 features of opaque ownership structures used
20 in aircraft registrations. Opaque ownership structure shell
21 companies; definition, companies that conduct either no
22 business or minimal business. Legitimate use; shell companies
23 may be formed to obtain financing prior to starting
24 operations.

25 In the aircraft ownership context, shell companies

1 may be created to hold title to aircraft for registration 03:11PM
2 purposes. Potential abuse; shell companies are vulnerable to 03:11PM
3 abuse when used to conceal beneficial owner identity for 03:12PM
4 illicit purposes. According to Federal Aviation 03:12PM
5 Administration, FAA officials, some aircraft registrations 03:12PM
6 have stacked company ownership, when shell companies own each 03:12PM
7 other. Such ownership arrangement can be used for illicit 03:12PM
8 purposes to conceal the identity of foreign-based beneficial 03:12PM
9 owners and can be difficult to detect. 03:12PM

10 "Opaque ownership structure Limited Liability 03:12PM
11 Companies (LLC). Definition, LLCs are a hybrid of a 03:12PM
12 corporation and a partnership protecting the owners who are 03:12PM
13 referred to as members from some debts and obligations like a 03:12PM
14 corporation and may confer certain tax advantages like a 03:12PM
15 partnership. 03:12PM

16 Legitimate use; as U.S. companies, LLCs provide a 03:12PM
17 range of services that are essential to the country's economic 03:12PM
18 system. In the aircraft ownership context, LLCs may be 03:13PM
19 created to hold title to aircraft for registration purposes. 03:13PM
20 Potential abuse; LLCs may obscure beneficial owner 03:13PM
21 information. Depending on the state at the time of company 03:13PM
22 formation, information on members who are owners of the LLCs 03:13PM
23 may not be required. LLCs may be abused by those who do not 03:13PM
24 meet the definition of a U.S. citizen or by illicit actors to 03:13PM
25 hide their identity for illicit purposes. Additionally, LLCs 03:13PM

1 may be shell companies subject to vulnerabilities discussed
2 earlier.

3 For aircraft registrations, FAA made LLCs a separate
4 registration type on the aircraft registration application in
5 2018. However, according to FAA officials, LLC corporate
6 structures may change any time after the registration, posing
7 challenges in identifying beneficial owners as part of safety
8 or law enforcement investigations."

9 MR. MCCONWELL: Okay.

10 THE WITNESS: Do you want me to read the foot --

11 MR. MCCONWELL: That's fine. Yeah, that's fine.
12 Thank you very much.

13 THE COURT: Thank you. All right, Mr. Martin?
14 Do you want us to move the easel there?

15 MR. MARTIN: I will, Your Honor.

16 THE COURT: Okay.

17 MR. MARTIN: I'm having Ms. McConwell help me
18 with the ELMO.

19 THE COURT: Okay, that's fine.

20 Okay. Cross-examination by Mr. Martin, you may
21 proceed.

22 MR. MARTIN: Thank you, Your Honor.

23
24 CROSS-EXAMINATION

25 BY MR. MARTIN:

1 Q. Agent Khamvongsa, I'm going to draw your attention to
2 the indictment. You were shown it yesterday, in particular --
3 I'm going to publish for him, Your Honor, from the indictment,
4 Counts 100 through 104 that you used yesterday.

5 THE COURT: Okay.

6 THE CLERK: One moment, one moment.

7 BY MR. MARTIN: (CONTINUING)

8 Q. Agent Khamvongsa, can you see what's -- I think it's
9 published to the jury as well?

10 THE COURT: Jury, can you see?

11 THE JURY: Yes.

12 THE COURT: Yes, they can.

13 BY MR. MARTIN: (CONTINUING)

14 Q. Perfect. Agent Khamvongsa, do you see up here where
15 it says "Count," and then it's got 100 through 104?

16 A. Yes, sir.

17 Q. And you testified about those particular counts
18 yesterday; correct, sir?

19 A. Yes, sir.

20 Q. As a matter of fact, I think you told the jury that
21 you actually assisted and helped prepare the information
22 relating to those counts; correct, sir?

23 A. Yes, sir.

24 Q. And you testified that you did that by looking at
25 various documents and coming up with, for example, One

Cross - Khamvongsa

1 Thirty-Four Two Nineteen Ninety-Two[sic] in Count 100, right?

03:17PM

2 A. Yes, sir.

03:17PM

3 Q. And in Count 101, One Ninety-Four One Eighty-Three
4 Fifty-Two[sic]; correct?

03:17PM

03:17PM

5 A. Yes, sir.

03:17PM

6 Q. And in Count 102, \$120,000; correct?

03:17PM

7 A. Yes, sir.

03:17PM

8 Q. Count 103, 234,980; correct?

03:17PM

9 A. Yes, sir.

03:17PM

10 Q. And finally, Count 104, \$401,588.41; is that correct,
11 sir?

03:17PM

03:17PM

12 A. Yes, sir.

03:17PM

13 Q. Okay. And you based those numbers, as you've
14 indicated, on review of the records in this case; correct?

03:17PM

03:17PM

15 A. Yes, sir.

03:18PM

16 Q. Okay. Now, I'm going to draw your attention to and I
17 need to give control back to... Ms. McConwell, so she can --
18 I'd like to pull up for you to review, sir, what's been
19 previously introduced as Government's Exhibit 2900, page 3280
20 through 3285. And were going to go over that, okay?

03:18PM

03:18PM

03:18PM

03:18PM

03:18PM

21 A. Yes, sir.

03:18PM

22 MS. MCCONWELL: 3280.

03:18PM

23 THE COURT: Did you say it's been admitted?

03:18PM

24 MR. MARTIN: It's been, and I think Mr. Reed
25 actually, the first witness in this case, Judge.

03:18PM

03:18PM

1 THE COURT: Long ago, go ahead. 03:18PM
2 MR. MARTIN: Just the other day. 03:18PM
3 THE COURT: Go ahead. 03:18PM
4 MR. MARTIN: I'm waiting for it to get up on the 03:18PM
5 -- 03:18PM
6 MS. MCCONWELL: 3280? 03:18PM
7 MR. MARTIN: Yes, 3280 through 3285. 03:18PM
8 MS. MCCONWELL: Got it. 03:19PM
9 BY MR. MARTIN: (CONTINUING) 03:19PM
10 Q. Do you see that agreement, sir? 03:19PM
11 A. Yes, sir. 03:19PM
12 Q. And are you familiar with that agreement? 03:19PM
13 A. Yes, sir. We talked about it through the course of 03:19PM
14 my testimony. 03:19PM
15 Q. Okay. And in particular, this agreement is one of 03:19PM
16 the agreements that forms the foundation of Count 100, isn't 03:19PM
17 that true, sir? 03:19PM
18 A. It is a piece of the evidence in which I utilized. 03:19PM
19 Q. That's what I just said. 03:19PM
20 A. Yes. 03:20PM
21 Q. This is one of the agreements that forms the basis of 03:20PM
22 your Count 100, isn't that true, sir? 03:20PM
23 A. It's one of the items; yes. 03:20PM
24 Q. Okay. English is your first language, right? 03:20PM
25 A. Are you insulting me or? 03:20PM

1 Q. I'm asking you because you don't seem to want to
2 answer my questions.

3 A. No, I want to be thorough. And so sometimes I just I
4 want to clarify.

5 Q. Is it one of the pieces or one of the contracts that
6 forms the basis of Count 100, sir?

7 A. It is one of the pieces; yes, sir.

8 Q. Okay. If you don't understand my question, please
9 let me know, I'll re-ask it. Okay?

10 A. Thank you, sir.

11 Q. Okay. So we're talking about Count 100, one of the
12 contracts, right?

13 A. Yes, sir.

14 Q. Okay. And you have indicated many, many times to
15 this jury that the tuna boat companies were defrauded, haven't
16 you, sir?

17 A. They were defrauded, yes.

18 Q. No, my question is -- listen carefully, please.

19 A. Yes.

20 Q. You have indicated to this jury many, many times that
21 you believe the tuna boat companies were defrauded, isn't that
22 true? I don't care about your opinion, I care about the
23 question I asked you. Isn't that true, you represented it to
24 the jury?

25 A. Define many.

1 Q. How about this, more than one?

03:21PM

2 A. Yes.

03:21PM

3 Q. And you understand that the tuna boat companies,

03:21PM

4 we're looking at the very first document here, entered into a

03:21PM

5 written contract, in this case, Wilma's Flight Services, with

03:21PM

6 Friesland Fishing Company, LLC; correct?

03:21PM

7 A. As it relates to this specific contract, Wilma's

03:21PM

8 Flight Services did enter into a contract with Friesland

03:21PM

9 Fishing Company, LLC.

03:22PM

10 Q. So there is no misunderstanding, for purposes of my

03:22PM

11 questioning, until I put another document up here, I'm

03:22PM

12 referring to this document. Okay?

03:22PM

13 A. Yes.

03:22PM

14 Q. So, this is a written lease, written contract between

03:22PM

15 Wilma's Flight Services and Friesland Fishing Company relating

03:22PM

16 to the substance, part of the substance of Count 100; correct?

03:22PM

17 A. Yes.

03:22PM

18 Q. And this is the only agreement as relates to this

03:22PM

19 contract, there is not another written contract about this

03:22PM

20 one, is there, sir?

03:22PM

21 A. There is an amendment.

03:22PM

22 Q. Does it change anything other than the length or the

03:22PM

23 aircraft?

03:22PM

24 A. I don't recall, I'd have to see it. But I believe

03:22PM

25 the amendment is signed.

03:22PM

Cross - Khamvongsa

1 Q. No, my question was -- I didn't ask if it was signed,
2 I said did it change anything other than the length of the
3 contract or the aircraft that --

4 A. I believe it is the aircraft. I'd have to see it to
5 confirm it.

6 Q. But that's the only thing it changed? All the other
7 terms and conditions are the same, it's a little blurry,
8 right?

9 A. The term is --

10 MS. M. MILLER: Well, Your Honor, I'm going to
11 object. He said he needs to see the amendment so he could
12 answer the question truthfully and thoroughly, otherwise, he's
13 just speculating, and that's not helpful to the jury.

14 MR. MARTIN: Well, Your Honor, he doesn't get to
15 ask questions. I ask questions, and if he doesn't know, he
16 could tell me I don't know.

17 MS. M. MILLER: Your Honor, he said he didn't
18 know.

19 THE COURT: The Court will overrule the
20 objection. Do you understand? Can you answer the last
21 question?

22 THE WITNESS: The last question again?

23 THE COURT: About the other terms.

24 THE WITNESS: The terms, the terms are the same.

25 BY MR. MARTIN: (CONTINUING)

1 Q. Okay. And so you have a very good reading voice. 03:23PM

2 All right. 03:24PM

3 A. Thank you. 03:24PM

4 Q. And I want you to tell me on this first page, if we 03:24PM

5 can scroll through it, and we'll scroll through it slowly. I 03:24PM

6 don't want you to read it, I want you to read it to yourself 03:24PM

7 but when you get to that first page -- well, let me back up. 03:24PM

8 I'll just -- I'll ask you a different question, I apologize. 03:24PM

9 I think you testified that you looked at each of the 03:24PM

10 contracts, specifically at the sections of the contracts, 03:24PM

11 right? 03:24PM

12 A. I looked -- yes. 03:24PM

13 Q. Because you were interested in what each section of 03:24PM

14 the contract said, right? 03:24PM

15 A. Yes. 03:24PM

16 Q. Okay. And so in this contract -- and you looked at 03:24PM

17 this contract, right? 03:24PM

18 A. Yes. 03:24PM

19 Q. In this contract, can you tell the ladies and 03:24PM

20 gentlemen of the jury where it says, where it says the word 03:24PM

21 "Federal Aviation Administration" or the initials "FAA"? 03:24PM

22 A. The registration number. 03:25PM

23 Q. No, I said -- 03:25PM

24 (Pause.) 03:25PM

25 BY MR. MARTIN: (CONTINUING) 03:25PM

1 Q. Listen carefully please, sir. I know you want to 03:25PM
2 help Ms. Miller all you can, and you're doing a great job 03:25PM
3 helping Ms. Miller all you can. 03:25PM

4 MS. M. MILLER: Your Honor. 03:25PM

5 MR. MARTIN: But I get to ask the questions and 03:25PM
6 my question was -- 03:25PM

7 MS. M. MILLER: Your Honor. 03:25PM

8 MR. MARTIN: Do I need to repeat it? Is that a 03:25PM
9 question. 03:25PM

10 MS. M. MILLER: I object and move to strike. I'm 03:25PM
11 going to ask Mr. Martin to, first of all, calm down because 03:25PM
12 he's screaming at the witness, he just screamed at me, and I 03:25PM
13 don't appreciate it in a court of law, first thing. Second 03:25PM
14 thing, this witness is not testifying for Marie Miller. This 03:25PM
15 witness is testifying on behalf of the United States. 03:25PM

16 THE COURT: All right. 03:25PM

17 MS. M. MILLER: It is inappropriate, it is 03:25PM
18 argumentative and he needs to calm down. 03:25PM

19 THE COURT: All right. Go ahead. I think -- the 03:25PM
20 Court will sustain the objection about your statement that the 03:25PM
21 witness -- that may be your opinion, but it is inappropriate 03:25PM
22 to say that and ask him that. So the Court will sustain that 03:26PM
23 objection, strike that. Don't listen to that part. You could 03:26PM
24 argue that later, but you can't ask that in a question, ladies 03:26PM
25 and gentlemen of the jury. Secondly, I think yes, we need to 03:26PM

1 calm down. I know you're zealous.

2 MR. MARTIN: I get upset when witnesses don't
3 answer questions intentionally, Your Honor, and they know they
4 are. And I'll go -- I'll ask the questions exactly again.

5 MS. M. MILLER: Your Honor, I'm going to move to
6 strike that comment. That is an inappropriate comment on the
7 credibility of the witness.

8 THE COURT: The Court will sustain the objection
9 on commenting on the presentation of the answers. So the --
10 if you think that he's not answering it, then address it to
11 me, then I can admonish the witness if I agree with you.
12 Okay. Let's go --

13 BY MR. MARTIN: (CONTINUING)

14 Q. Agent Khamvongsa --

15 A. Yes, sir.

16 Q. -- again, point me and the jury to the section of the
17 contract that is found at Exhibit 2900, pages 3280
18 through 3285, the words, W-O-R-D-S, Federal Aviation
19 Administration. I want you to point those words out to me.
20 Do you -- first, do you understand my question?

21 A. As it -- literally, FAA is what you want me --

22 Q. No, no, I said Federal Aviation Administration.

23 A. Okay.

24 Q. Okay. Tell me what section that is so I can point it
25 out to the jury.

Cross - Khamvongsa

1 A. The word Federal --

03:27PM

2 Q. Aviation Administration.

03:27PM

3 A. -- Aviation Administration... does not appear on the
4 contract, except in the registration number.

03:27PM

5 Q. Registration number, I don't see registration number
6 Federal Aviation Administration, sir. Do you see the words
7 Federal Aviation Administration there?

03:27PM

03:28PM

8 A. Yes.

03:28PM

9 Q. The words, point them out to me, circle the words
10 "federal" and then circle the word "aviation" and then circle
11 the word "administration."

03:28PM

03:28PM

03:28PM

12 THE COURT: Why don't -- hold on, can you do me a
13 favor? Take that off for a second. It's kind of too fat.
14 Let's make it a little skinnier.

03:28PM

03:28PM

03:28PM

15 THE WITNESS: Can I just underline it?

03:28PM

16 THE COURT: Yeah, you can underline it. Why
17 don't you underline it. Okay. Underneath, it's underlined
18 underneath those. Okay go ahead.

03:28PM

03:28PM

03:28PM

19 BY MR. MARTIN: (CONTINUING)

03:28PM

20 Q. Okay. Can you spell "federal," please?

03:28PM

21 A. Yes.

03:28PM

22 Q. Please, spell it.

03:28PM

23 A. F-E-D-E-R-A-L.

03:28PM

24 Q. Can you spell "aviation," please?

03:28PM

25 A. Yes.

03:28PM

1 Q. Spell it. 03:28PM

2 A. A-V -- (laughing) A-V -- aviation, A-V-I-A-I-T-I-O-N. 03:28PM

3 Q. Okay. How about "administration"? 03:28PM

4 A. I'm going to fail this. A-D-M-I-N, admin, 03:29PM

5 I-S-T-R-A-T-I-O-N. I spelled aviation wrong, I think. 03:29PM

6 Q. Do you see the words you just spelled on that 03:29PM

7 document, those three words, sir? 03:29PM

8 A. I do not see those specific three words on the 03:29PM

9 document. 03:29PM

10 MR. MARTIN: Can we take the yellow line off, 03:29PM

11 please. 03:29PM

12 BY MR. MARTIN: (CONTINUING) 03:29PM

13 Q. Now, will you tell me and show the jury, on that 03:29PM

14 document, the letters, sequentially, "FAA." Number one, do 03:29PM

15 you understand my question? 03:29PM

16 A. Yes. You want me to point out FAA on the document 03:29PM

17 specifically as it relates to those specific letters. 03:29PM

18 Q. Yes. Every question I ask is specific, Agent 03:30PM

19 Khamvongsa. So, yes, specifically, the letters "FAA." 03:30PM

20 (Pause.) 03:31PM

21 THE WITNESS: Those specific letters, FAA, are 03:31PM

22 not on the document that we see. 03:31PM

23 BY MR. MARTIN: (CONTINUING) 03:31PM

24 Q. Is there a signature line on this document for the 03:31PM

25 federal aviation to sign, sir? 03:31PM

Cross - Khamvongsa

1 A. There is no FAA line specifically on this document;
2 yes.

3 Q. Is there a signature line on this document, sir, for
4 the Federal Aviation Administration to sign, sir?

5 A. No, no signature line; yes.

6 Q. Is there a signature line for the Department of
7 Transportation to sign this document, sir?

8 A. No.

9 Q. Would you agree with me, sir, that the Federal
10 Aviation Administration is not a party to this written
11 contract?

12 A. It's not a party to this specific contract; no.

13 Q. Okay. Now, let's go to Government's
14 Exhibit 2900-2996-3001 -- yeah, excuse me, I gave the wrong
15 number. 2900, starting at 2996. Are you familiar with this
16 document, sir?

17 A. Yes.

18 Q. And do you need to see the indictment for -- I'm
19 going to ask you a question, does that document relate to one
20 of the contracts relating to Count 101 of this -- of the
21 indictment?

22 A. Yes.

23 Q. You need to see the indictment or you're agreeing
24 with me?

25 A. I believe it's 101.

Cross - Khamvongsa

1 Q. Okay. Well, I want to make sure, so here. 03:33PM

2 A. Thank you, sir. Yes. 03:33PM

3 Q. So, again, point out for the ladies and gentlemen of 03:33PM
4 the jury, if you know, and if we need to go through the 03:33PM
5 document, we will, but I think you should agree with me that 03:33PM
6 the words "Federal Aviation Administration" do not appear in 03:33PM
7 that document anywhere, do they, sir? 03:33PM

8 A. The words specifically does not appear in the 03:33PM
9 document. 03:33PM

10 Q. And the letters "FAA," do not appear in that 03:33PM
11 document, do they, sir? 03:34PM

12 A. Literally, no. 03:34PM

13 Q. If we could go to page 3001 of that exhibit, the last 03:34PM
14 page. Do you see the last page, sir? 03:34PM

15 A. Yes. 03:34PM

16 Q. Okay. And I represent to you that's page 3001, 03:34PM
17 that's the last page of that lease agreement contract. Is 03:34PM
18 there a signature line for the Federal Aviation Administration 03:34PM
19 on that document, sir? 03:34PM

20 A. No. 03:34PM

21 Q. Is there a signature line for the FAA on that 03:34PM
22 document, sir? 03:34PM

23 A. No. 03:34PM

24 Q. Is the Federal Aviation Administration or the FAA, 03:34PM
25 based on your -- based on this document, a party to that 03:34PM

Cross - Khamvongsa

1 document, sir?

03:35PM

2 A. As it relates to this document, no.

03:35PM

3 Q. All right. Now, as to Count 102, I'm going to hand
4 you the indictment again. I'm going to ask you to look at
5 Count 102 and compare it to Count 100, and ask you if -- not
6 this one but the contract we just had up on the screen, which
7 would have been 3280 to 3285 of Exhibit 2900, if that contract
8 would also be covered in Count 102?

03:35PM

03:35PM

03:35PM

03:35PM

03:35PM

03:35PM

9 A. Yes.

03:35PM

10 Q. So if we went back to Exhibit 3280, if we could, oh,
11 it's up, I'm sorry, somebody was thinking ahead of me. Just
12 like your prior testimony, you'll agree that Federal Aviation
13 Administration and FAA literally do not appear in those
14 documents?

03:35PM

03:36PM

03:36PM

03:36PM

03:36PM

15 A. They literally do not appear in this contract and
16 this document.

03:36PM

03:36PM

17 Q. And there is no signature line for the Federal
18 Aviation Administration, and if we need to go to that last
19 page, I'm happy to do that.

03:36PM

03:36PM

03:36PM

20 A. Could we, please?

03:36PM

21 Q. Sure.

03:36PM

22 (Pause.)

03:36PM

23 BY MR. MARTIN: (CONTINUING)

03:36PM

24 Q. There is no signature line for the Federal Aviation
25 Administration, is there, sir?

03:36PM

03:36PM

1 A. No. 03:36PM

2 Q. Okay. Or the FAA? 03:36PM

3 A. No. 03:36PM

4 Q. And they're not a party to the contract? 03:36PM

5 A. This is -- this contract between the tuna boat, the 03:37PM

6 lessor and the lessee. 03:37PM

7 Q. Yes, sir. 03:37PM

8 A. Yes. 03:37PM

9 Q. Now, if we go to Government's -- I'm going to show 03:37PM

10 you Government's Exhibit 2900-3434-3439, I'm going to hand you 03:37PM

11 the indictment again. Do you see that, sir? 03:37PM

12 A. Yes. 03:37PM

13 Q. Is that one of the contracts that is the subject 03:37PM

14 matter of Count 103? 03:37PM

15 A. I'd have to actually get additional documentation or 03:37PM

16 review it, specifically the aircraft vessel assignment which 03:37PM

17 would further reflect. 03:38PM

18 Q. Well, let me ask you, sir, do you have Count 103 in 03:38PM

19 front of you, do you not, sir? 03:38PM

20 A. I do. 03:38PM

21 Q. And are you saying that you're not familiar enough 03:38PM

22 with this contract to know that this is one of the contracts 03:38PM

23 that was contained within the substance matter of the draft of 03:38PM

24 the Count 103? 03:38PM

25 A. I know what is there, but there is also documentation 03:38PM

Cross - Khamvongsa

1 which corroborates it, and in order for me to corroborate it,
2 I refer to other sources to ensure, 'cause Ocean Conquest,
3 there is multiple, there is multiple boats that make up this
4 particular charge.

5 Q. Yeah. And that's true for Count 100, Count 101,
6 Count 102 and Count 104, isn't it, sir?

7 A. No, Count 100, 101 and 102 refer to only one boat.
8 Where as Count 103 and 104 refer to multiple boats. So it's
9 easier for me to remember and recall 100 to 102 because I'm
10 only referencing one, whereas 103 I'm referencing multiple
11 boats as it relates to this wire fraud charge.

12 Q. So you're saying that you don't know that this
13 contract relates to Count 103, is that your testimony, sir?

14 A. What I'm saying is I would need to review other
15 documents to reference it.

16 Q. And I would -- well, let me make it a little easier
17 then. You have looked at every one of the 4 to 5,000 pages of
18 contracts in this case, have you not, sir?

19 A. Yes.

20 Q. And every one of them that you looked at -- this is
21 already in evidence, if we could go to 3439, please. Every
22 one of them that is in evidence has a page not identical but
23 very similar to page 3439, wouldn't you agree, sir, every one
24 of the contracts?

25 A. Yes.

1 Q. Every one of the contracts has a signature page;
2 correct?

3 A. Has a signature page, yes.

4 Q. And on the signature page, there are only two
5 signers; correct?

6 A. The lessor and lessee, yes.

7 Q. So every contract has two signatures and one of them
8 is the lessor and in this case, it's signed by Marvin Reed,
9 right?

10 A. Yes.

11 Q. And the lessee in this case is a tuna boat company;
12 correct?

13 A. Yes.

14 Q. And that is true about every contract you looked at;
15 correct, sir?

16 A. That Marvin Reed signs it?

17 Q. No.

18 A. That's --

19 Q. That there are only two people signing it, the tuna
20 boat company and the lessor?

21 A. Yes.

22 Q. And not -- on not one of the 4,000 pages, 4 to
23 5,000 pages of documents you reviewed, is there a signature
24 line for the Federal Aviation Administration, is there, sir?

25 A. Not a signature line, no.

1 Q. Is there a signature line for the FAA on any of those
2 contracts or leases, sir?

3 A. If we're talking about a signature line for the
4 FAA --

5 Q. That's what my question was.

6 A. -- no.

7 Q. What was your answer?

8 A. I said no, sir.

9 Q. Okay. And they are not a party to any of the 4 to
10 5,000 pages of lease agreements you looked at, isn't that
11 true, sir?

12 A. They are not a party, no.

13 Q. And let me ask you, sir, do I have or do you have --

14 A. I have it, sir, the --

15 Q. I have a copy too.

16 A. Oh, okay.

17 Q. The numbers that are reflected in Counts 100
18 through 104, that you came up with, those represent funds that
19 were paid pursuant to the lease agreements; correct, sir?

20 A. Yes.

21 Q. All of 'em?

22 A. Yes.

23 Q. In Count 100?

24 A. Yes.

25 Q. Count 102, 101 -- I'll start with 101.

1 A. Yes. 03:43PM

2 Q. 102? 03:43PM

3 A. Pursuant to the leases, yes. 03:43PM

4 Q. 103? 03:43PM

5 A. Yes. 03:43PM

6 Q. And 104? 03:43PM

7 A. Yes. 03:43PM

8 Q. And those were payments for the services of 03:43PM

9 helicopters for tuna spotting; correct, sir? 03:43PM

10 A. Yes. 03:43PM

11 Q. And nothing else? 03:43PM

12 A. Well, there were also payments for damages, overages, 03:43PM

13 overtime, yes. 03:43PM

14 Q. Okay. But they all related to the terms of these 03:43PM

15 written contracts; correct, sir? 03:44PM

16 A. The terms as the lessee knew it, yes. 03:44PM

17 Q. Is there anything -- maybe I misunderstood your 03:44PM

18 answer. The terms of this written contract, those are the 03:44PM

19 terms of the contract; correct, sir? 03:44PM

20 A. As the lessee's knew it, yes. 03:44PM

21 Q. Which lessees have you talked to? Name them, please. 03:44PM

22 A. Talked to...the South Pacific Tuna Company. 03:44PM

23 Specifically that one because that was the only 03:44PM

24 U.S.-registered tuna company that I could identify. 03:44PM

25 Q. Okay. And let me ask you, sir, South Pacific Tuna 03:44PM

1 Company, this lease, and I'm just looking at the one here,
2 3439 -- the one that's in front of you?

3 A. Yes, sir.

4 Q. We'll go to the front, it's 3434. That's the entire
5 written agreement between the parties, isn't it, sir?

6 A. Between the parties South Pacific Tuna Company and
7 the lessor, yes.

8 Q. And in this case, we got Ocean Conquest, LLC and
9 that's South Pacific Tuna Company, right, sir?

10 A. Yes, it's one of the many boats that they oversee.

11 Q. And so South Pacific Tuna Company has a shell
12 corporation that Ocean Conquest, LLC falls within; is that
13 correct, sir?

14 A. I don't know to the specifics of Ocean Conquest and
15 the relationship between South Pacific Tuna Company, but I do
16 know that they are responsible for resolving their financials,
17 such as the payments for the leases and ensuring that all the
18 paperwork is filed as it relates to the specific tuna
19 companies.

20 Q. All right. And do they have lawyers?

21 A. They do have lawyers.

22 Q. That review their leases?

23 A. I don't know what their responsibilities are.

24 Q. Okay.

25 A. Specifically.

1 Q. And I'm sure you checked this out, but has Ocean
2 Conquest and South Pacific have not filed any litigation
3 against any of Jon Walker's companies to recover any losses
4 for any misrepresentation, isn't that true?

5 A. Not yet.

6 Q. I didn't ask you if they done it yet. I'm talking
7 about today. Let's get real. Right now, have they -- isn't
8 it true they have not filed any litigation against any of
9 these companies because of any kind of misrepresentation or
10 fraud or deceit, isn't that true?

11 A. I haven't seen any -- any documents to reflect such
12 actions.

13 Q. And as a matter of fact, you have not seen any
14 documents to reflect that any tuna boat company of all of the
15 tuna boat companies have ever filed any type of litigation
16 against any of these companies for fraud, misrepresentation or
17 anything like that, isn't that true, sir?

18 A. Not yet, I mean --

19 Q. Is there --

20 (Pause.)

21 BY MR. MARTIN: (CONTINUING)

22 Q. I'm not talking about tomorrow. If you -- if you --
23 if my question -- you don't understand, let me know. I'm
24 talking about right now. Okay. So I want to know right now,
25 not tomorrow, not five years from now, not when you go out in

1 the hall and pick up the phone and call somebody and say, hey,
2 you got to do this so I don't look bad. I want to know about
3 right now have any companies filed any type of civil
4 litigation because of fraud, deceit, misrepresentation,
5 against any of these helicopter companies, sir?

6 A. No. Because they don't know.

7 Q. You can read minds now?

8 A. I'm aware of what South Pacific Tuna Company told us.

9 Q. No. My question is can you read minds?

10 A. I cannot read your mind.

11 Q. Can you read a tuna company's mind?

12 A. No.

13 Q. Do you think they can read contracts?

14 A. I think they can read contracts if it was truthful.

15 Q. Did I ask you whether or not it was truthful, sir?

16 A. You did not ask that.

17 Q. Okay. I'm going to ask the question again, and I'd
18 like for you to answer it. Do you think they can read
19 contracts?

20 A. They can read.

21 Q. Okay. Now, I believe you testified that what you
22 referred to as shell corporations didn't own any assets, do
23 you recall that testimony, sir?

24 A. Yes.

25 Q. Is an aircraft or a helicopter an asset, sir?

1 A. In this case, yes.

03:49PM

2 Q. My questions that I'm asking are about this case, all
3 right?

03:49PM

03:49PM

4 A. Excellent. Thank you. Yes.

03:49PM

5 Q. Okay. So helicopters and aircraft are assets. And
6 if a helicopter or an asset is owned by a Vanuatu corporation,
7 that would be an asset; correct, sir?

03:49PM

03:50PM

03:50PM

8 A. In this case, that's not how it was done.

03:50PM

9 Q. I didn't ask you how anything was done or anything
10 like that. I said if a Vanuatu corporation owns a helicopter
11 or it owns an aircraft, that is an asset, isn't that true,
12 sir?

03:50PM

03:50PM

03:50PM

03:50PM

13 A. But are we talking about the facts of this case
14 because if we are --

03:50PM

03:50PM

15 Q. I'm asking you a question, sir.

03:50PM

16 A. A general question about just a Vanuatu company? And
17 not the corporations that are tied to this case?

03:50PM

03:50PM

18 Q. Are you familiar with a corporation called Eddie Air,
19 Inc.?

03:50PM

03:51PM

20 A. I've seen it before; yes.

03:51PM

21 Q. A Vanuatu corporation?

03:51PM

22 A. In name, yes.

03:51PM

23 Q. And you've seen documentation on the FAA registry
24 indicating that it is the registered aircraft; correct, sir?

03:51PM

03:51PM

25 A. Eddie Air, it was on a registry, yes, an FAA registry

03:51PM

1 as a U.S. corporation.

03:51PM

2 Q. Well, as a corporation?

03:51PM

3 A. A U.S. corporation.

03:51PM

4 Q. You know, we went through this with -- you been
5 through this trial, you sat in the back and listened to all
6 the witnesses testify, haven't you sir?

03:51PM

03:51PM

03:51PM

7 A. Yes, sir.

03:51PM

8 Q. Okay. And you know that there are all kinds of forms
9 that have come out about these registration forms they've
10 changed, right? You heard that testimony?

03:51PM

03:51PM

03:52PM

11 A. Yes.

03:52PM

12 Q. And one time they just said "corporation," then back
13 in probably 2000 -- and I may get the date wrong, so if I do,
14 I apologize -- sometime around 2017, 2018, they added to the
15 form, "U.S. corporation," right?

03:52PM

03:52PM

03:52PM

03:52PM

16 A. I'd have to see that. I... I don't recall --

03:52PM

17 Q. I'm not arguing about the date. I could be wrong on
18 the date. I'm talking about they actually added the word
19 "U.S. corporation," right?

03:52PM

03:52PM

03:52PM

20 A. That still doesn't take away from the fact that it
21 was registered as a U.S. corporation.

03:52PM

03:52PM

22 Q. My question, sir, is, did the form change to reflect
23 "U.S. corporation"?

03:52PM

03:52PM

24 A. At some point.

03:52PM

25 Q. Okay.

03:52PM

1 A. It may have been added. 03:52PM

2 Q. And a corporation -- and I just picked Eddie Air as 03:52PM
3 an example -- 03:52PM

4 A. Yes, sir. 03:52PM

5 Q. -- that owns an aircraft, a helicopter, isn't it true 03:52PM
6 that helicopter that is registered in their name is an asset, 03:53PM
7 sir? 03:53PM

8 A. A helicopter registered... if it truly was registered 03:53PM
9 in their name and was treated as such, yes, it would be that 03:53PM
10 corporation's asset. But that's not how it was done in this 03:53PM
11 case. 03:53PM

12 Q. You know, you have your opinion as to what was done 03:53PM
13 in this case. I'll agree with you. 03:53PM

14 A. No, it's not my opinion; it's based upon what was 03:53PM
15 presented. 03:53PM

16 Q. Sir, I'm asking you questions. If you let me finish 03:53PM
17 my question, we're going to get through a lot quicker. And I 03:53PM
18 can tell you right now we're not going to get through by 4:00 03:53PM
19 based on your answers. So here's the question. 03:53PM

20 A. Yes, sir. 03:53PM

21 Q. You understand the jury's job is to decide what the 03:53PM
22 facts are in this case, don't you, sir? 03:53PM

23 A. Yes, sir. 03:53PM

24 Q. You've testified in Court, I think, you just said at 03:53PM
25 least three times before, right? 03:54PM

1 A. Yes, sir.

03:54PM

2 Q. And you know that you're here to testify to what your
3 investigation reveals; correct?

03:54PM

03:54PM

4 A. Yes, sir.

03:54PM

5 Q. And --

03:54PM

6 A. As well as the facts, sir.

03:54PM

7 Q. That's what your investigation turns up, I'm
8 assuming?

03:54PM

03:54PM

9 A. Right, but --

03:54PM

10 Q. Facts?

03:54PM

11 A. Correct.

03:54PM

12 Q. Okay. So when -- and I assume you have opinions
13 about this case; correct, sir?

03:54PM

03:54PM

14 A. Yes, but that doesn't factor into the facts.

03:54PM

15 Q. My question is, you have opinions about this case;
16 correct, sir?

03:54PM

03:54PM

17 A. I have opinions.

03:54PM

18 Q. All right. And you've been an IRS agent for 20
19 something years?

03:54PM

03:54PM

20 A. Yes, sir.

03:54PM

21 Q. And you've probably been to continuing law
22 enforcement or IRS training, schools, every year to assist you
23 with your investigative techniques, right?

03:54PM

03:55PM

03:55PM

24 A. Yes, sir.

03:55PM

25 Q. And you've been to actual classes that assist you on

03:55PM

1 how to testify to a jury to appear to be more believable,
2 isn't that true, sir?

3 A. To appear more believable? No. No, not -- not the
4 way you framed it. We --

5 Q. You've been to classes to assist you in testifying,
6 we'll leave it at that, isn't that true, sir?

7 A. Yeah, we talk about testifying in courtroom and
8 procedures.

9 Q. Okay. And in that regard, sir --

10 THE COURT: Okay. Four more minutes before we
11 recess for the day, Mr. Martin.

12 BY MR. MARTIN: (CONTINUING)

13 Q. On Government's Exhibit G-2 -- 829, there are
14 multiple corporations listed here under what's labeled "30
15 Vanuatu international companies," you see that, sir?

16 A. Yes, sir.

17 Q. And each of those companies that's listed has an
18 aircraft or helicopter in their assets, isn't that true, sir?

19 A. No, sir.

20 Q. They don't all have helicopters?

21 A. No, sir, they all belong to Hansen Helicopters.

22 Q. So Eddie Air, the one we just talked about doesn't
23 have a helicopter?

24 A. It exists in name.

25 Q. It doesn't -- it's not registered on the FAA registry

1 as a helicopter?

03:57PM

2 A. Only as name.

03:57PM

3 Q. So... what you're saying is the registry is a fraud?

03:57PM

4 A. Not the registry; what was filed is a fraud.

03:57PM

5 Q. My question is, you're telling me that if it's filed
6 on the FAA registry, if Eddie's Air is at the FAA registry as
7 a helicopter...(pause.)

03:57PM

03:57PM

03:57PM

8 MR. MARTIN: Your Honor, I'm looking for an
9 exhibit. It might take me a few minutes. I can go ahead and
10 do it, or we --

03:58PM

03:58PM

03:58PM

11 THE COURT: Want to recess and finish it up
12 tomorrow?

03:58PM

03:58PM

13 MR. MARTIN: Yes, Your Honor.

03:58PM

14 THE COURT: All right. Why don't we do that.
15 It's almost 4:00 anyway. Why don't we do that.

03:58PM

03:58PM

16 Ladies and gentlemen of the jury, please keep an
17 open mind. Do not form or express any opinion on this case
18 until it's submitted to you, do not speak to anyone on any
19 subject connected with the trial. Now, we're supposed to
20 start at 8:15 tomorrow, I'm going to ask you to be here
21 actually at 9:00 because I have a motion for compassionate
22 release that's going to be heard early in the morning. I'm
23 not sure how long that's going to go. So rather than keep you
24 waiting, we'll start at 9:00 a.m. How much longer do you have
25 with this witness, do you think?

03:58PM

03:58PM

03:58PM

03:58PM

03:58PM

03:58PM

03:58PM

03:58PM

03:58PM

03:58PM

1 MR. MARTIN: I didn't think I would go as long as
2 I did, Your Honor.

3 THE COURT: It's okay.

4 MR. MARTIN: So I'm having -- as quickly as I
5 can.

6 THE COURT: All right. So --

7 MR. MARTIN: Maybe 30, 40 minutes, Judge.

8 THE COURT: Oh okay. So then, Prosecution, you
9 don't have that much long rebuttal, I mean --

10 MS. M. MILLER: I will have a redirect based on
11 both witnesses questions and the introduction of new exhibits.

12 THE COURT: Right. But I mean how long -- I'm
13 just --

14 MS. M. MILLER: Approximately an hour.

15 THE COURT: All right. So then you'll have your
16 next witness ready to go?

17 MS. M. MILLER: Yes.

18 THE COURT: All right. So we're almost there,
19 prosecution has two more witnesses after this agent. All
20 right. Ladies and gentlemen, take care. I'll see you
21 tomorrow. So be here and we'll start at 9:00 a.m. Okay.
22 Thank you.

23 (Jury out at 3:59 p.m.)

24 Okay, so we're outside the presence of the jury.
25 So, Counsels, make sure too that when you have exhibits that

1 are new, give it to other Counsels ahead of time, not during
2 the testimony, so that they can all be prepared. You don't
3 have to waste time, everybody reviewing it. And new exhibits.
4 Okay. All right. Thank you. I'll see all of you tomorrow.

03:59PM

03:59PM

03:59PM

03:59PM

5 THE WITNESS: Thank you, Your Honor.

03:59PM

6 THE COURT: Thank you, take care.

03:59PM

7 (Proceedings concluded at 4:00 p.m.)

04:00PM

8 * * *

04:00PM

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1 August 18, 2022; 9:06 a.m.; Hagatna, Guam 08:52AM

2 * * * 08:52AM

3
4 THE COURT: I don't have a cold. I really think 08:52AM
5 it's my -- one of my parts of my house is undergoing 09:06AM
6 construction, so I think all the construction dust is actually 09:06AM
7 gotten to me. So I'm coughing. 09:06AM

8 MS. M. MILLER: It gets everywhere, doesn't it? 09:06AM

9 THE COURT: Well, I mean -- I'm redesigning a 09:06AM
10 room and making it like a room for my husband, like a man 09:07AM
11 cave. 09:07AM

12 MS. M. MILLER: A man cave. Nice. 09:07AM

13 THE COURT: Yeah. So I'm just -- I have a lot of 09:07AM
14 construction ongoing, and I just was there last night trying 09:07AM
15 to clean up. So I think it really is affecting me this 09:07AM
16 morning. Okay. We ready to go, everybody? 09:07AM

17 MS. M. MILLER: Yes, Your Honor. 09:07AM

18 MR. MARTIN: Yes, Your Honor. 09:07AM

19 THE COURT: Where were we last? Oh, yes, that's 09:07AM
20 right, Mr. Martin was cross-examining the witness. 09:07AM

21 MS. M. MILLER: Yes. 09:07AM

22 THE COURT: We'll call in the jury. 09:07AM

23 (Pause.) 09:07AM

24 THE COURT: Just an FYI. I know I told you I was 09:07AM
25 still thinking about that issue, so I'm actually doing further 09:07AM

Cross - Khamvongsa

1 research on that issue we discussed yesterday regarding shell
2 corporations. I think that if there is any relevant cases, it
3 would really come from cases dealing with like organized
4 crime, shell corporations and stuff. So we're kind of looking
5 at that. If you guys have any cases you want me to look at,
6 let me look at them, too. Send them to me. Okay? All right.

7 (Pause.)

8 THE COURT: How much longer do you have with this
9 witness, Mr. Martin? Approximately?

10 MR. MARTIN: Your Honor, I would say less than an
11 hour.

12 THE COURT: Okay.

13 MR. MARTIN: Kind of going to depend on how
14 things go.

15 THE COURT: You guys are communicating? You guys
16 are communicating?

17 MR. MARTIN: Me and the witness?

18 THE COURT: Yeah.

19 MR. MARTIN: Sure. We're communicating, Judge.
20 We get along great.

21 THE COURT: I said -- that's what I mean,
22 depending on how you're communicating? I'm just teasing.

23 MR. MARTIN: I think we're communicating very
24 well, Your Honor.

25 THE COURT: Yeah, right. I think so.

1 THE WITNESS: Yes, ma'am. 09:08AM

2 THE COURT: (Laughing.) Okay. My allergies have 09:08AM
3 kicked in, team. 09:08AM

4 MS. M. MILLER: Sorry. 09:08AM

5 MR. MARTIN: Mine hit this morning, Your Honor. 09:08AM

6 THE COURT: Well, I take Zyrtec-D. It really 09:08AM
7 works. 09:08AM

8 MR. MARTIN: I take Allegra? Or the generic 09:08AM
9 Allegra, whatever the heck that is. 09:08AM

10 THE COURT: Generic? 09:08AM

11 MR. MARTIN: The Walgreens Allegra. 09:08AM

12 THE COURT: I don't think I would take generic. 09:09AM

13 MR. MARTIN: Well, the ingredients are exactly 09:09AM
14 the same. 09:09AM

15 THE COURT: I know, but there is something about 09:09AM
16 a generic doesn't sound -- it doesn't sound like it's going to 09:09AM
17 do the job, but it probably does. 09:09AM

18 Please rise for the jury. 09:09AM

19 (Jury in at 9:09 a.m.) 09:09AM

20 THE COURT: All right. Please be seated. 09:09AM

21 Welcome back, ladies and gentlemen of the jury. We'll 09:09AM
22 continue on with the cross-examination of the witness by 09:09AM
23 Mr. Martin. You may proceed, Mr. Martin. 09:09AM

24 MR. MARTIN: Thank you, Your Honor. Good 09:09AM
25 morning, ladies and gentlemen of the jury. 09:09AM

1 THE JURY: Morning.

09:09AM

2 BY MR. MARTIN: (CONTINUING)

09:09AM

3 Q. Morning, Agent Khamvongsa.

09:09AM

4 A. Good morning, sir.

09:09AM

5 Q. Turn this on, so be everybody could hear me. I've
6 been known to be very quiet.

09:09AM

09:10AM

7 THE COURT: Well, you have a country accent or
8 something like that, right? Oklahoma. It's kind of a nice
9 accent there.

09:10AM

09:10AM

09:10AM

10 MR. MARTIN: Well, thank you, Your Honor.

09:10AM

11 BY MR. MARTIN: (CONTINUING)

09:10AM

12 Q. Agent Khamvongsa, I don't know if we'll need this,
13 but I'm going to give it to you just in case. That's the
14 indictment, okay?

09:10AM

09:10AM

09:10AM

15 A. Yes, sir.

09:10AM

16 Q. Now, yesterday, Agent, we were testify -- you were
17 testifying about all these corporations. Do you recall that
18 testimony, sir?

09:10AM

09:10AM

09:10AM

19 A. Yes.

09:10AM

20 Q. Okay. And that -- that was of interest in your
21 investigation. Would you agree with that, sir?

09:10AM

09:10AM

22 A. It was a big -- sorry, I think I misunderstood you.
23 Big?

09:10AM

09:10AM

24 Q. That -- I want to make sure my microphone is on. It
25 looks like it is. That was of interest to your investigation;

09:10AM

09:10AM

Cross - Khamvongsa

1 is that accurate?

2 A. Oh, interest? Yes.

3 Q. Okay. And one of the things that was of interest to
4 your investigation was the fact that we don't really know who
5 the true owner is, or at least you didn't really know who the
6 true owner was. Would you agree with that, sir?

7 A. Who the true owner of the 30 Vanuatu companies?

8 Q. Well, of the aircraft.

9 A. Of the aircraft? Oh, yeah. We know who the owners
10 are.

11 Q. Okay. How about of the companies, was that a concern
12 to you?

13 A. In regards to this case --

14 Q. Yes.

15 A. -- the companies do play a role in this case.

16 Q. Okay. So I'm going to show you what's been
17 previously -- and we'll verify that before I put it up, but
18 I'm going to show you what's been previously identified as
19 Government's Exhibit 752-54, sir. I'm hoping Ms. McConwell is
20 ahead of me, which she is most of the time. So she'll...

21 THE CLERK: Thank you. One moment.

22 BY MR. MARTIN: (CONTINUING)

23 Q. Sir, do you see what's been put on the screen as
24 Government's Exhibit 752-54, previously admitted into
25 evidence?

1 A. Yes.

09:12AM

2 Q. Do you recognize that as a record that is kept in the
3 regular course of business by the Federal Aviation
4 Administration, sir?

09:12AM

09:12AM

5 A. Yes.

09:12AM

6 Q. Okay. And that is an aircraft registration
7 application. Would you agree with that, sir?

09:12AM

09:12AM

8 A. Yes, sir.

09:13AM

9 Q. Okay. And it indicates that the owner in this
10 instance is Whirlwide Helicopters, Inc.; correct?

09:13AM

09:13AM

11 A. The owner -- what's --

09:13AM

12 Q. The name of the applicant, let's put it that way.

09:13AM

13 A. The applicant, what was listed here, yes.

09:13AM

14 Q. Okay. If we could -- and it gets a little -- before
15 I move it, it gives an address, right?

09:13AM

09:13AM

16 A. In Guam, yes.

09:13AM

17 Q. Right, it gives an address and the address is in
18 Guam?

09:13AM

09:13AM

19 A. Mm-hmm.

09:13AM

20 Q. Correct? And if we go on down, we see that the
21 president of that company, whose address is in Guam, is Jon D.
22 Walker, president. You see that, sir?

09:13AM

09:13AM

23 A. Yes, sir.

09:13AM

24 Q. Okay. And if we could go back up to the top of this
25 exhibit, do you see the type of registration there, sir, the

09:13AM

09:13AM

1 line that says type of registration? I'll -- this box right
2 there. Do you see that box, sir?

3 A. Yes, sir.

4 Q. Okay. And would you agree with me, sir, that the
5 type of registration is corporation?

6 A. U.S. corporation, yes, sir.

7 Q. Well, let's both agree, will you read the word after
8 number three? Will you just read the word?

9 A. Yes, sir.

10 Q. What's that word?

11 A. Corporation.

12 Q. Okay. Now if we could go, Agent, to -- or Ms.

13 McConwell, I've lost my notes here, to Government's

14 Exhibit 752-52. And I don't have the capability or the
15 knowledge, let me rephrase that, of removing that yellow
16 thing.

17 MR. MARTIN: Thank you, Carmen. I appreciate it.

18 BY MR. MARTIN: (CONTINUING)

19 Q. Do you recognize this document as a document kept in
20 the normal course of business of the Federal Aviation
21 Administration, sir?

22 A. Yes, sir.

23 Q. And as a matter of fact, would you agree with me,
24 sir, that it relates to the same aircraft, sir?

25 A. Yes, sir. The same U.S. registration, yes.

1 Q. Right. Right. And this is a bill of sale versus an 09:15AM
2 application for registration; correct, sir? 09:15AM

3 A. Yes, sir. 09:15AM

4 Q. And the purchaser of this aircraft, the same one we 09:15AM
5 just saw, is Whirlwide Helicopters, Inc.; correct, sir? 09:15AM

6 A. What's reflected here is Whirlwide Helicopters, Inc. 09:15AM

7 Q. Right. I mean, you don't have any reason to believe 09:15AM
8 that this form is inaccurate, do you, sir? 09:15AM

9 A. Yes. 09:15AM

10 Q. You have reason to believe this form is inaccurate, 09:15AM
11 that a record kept by the Federal Aviation Administration that 09:15AM
12 is in their files, I don't know -- yeah, it's there right now, 09:16AM
13 right? It's in their files right now? 09:16AM

14 A. Yes. 09:16AM

15 Q. Okay, so let's talk about this form that you have 09:16AM
16 reason to believe is inaccurate. It shows the purchaser is 09:16AM
17 Whirlwide Helicopters, Inc.; correct, sir? 09:16AM

18 A. Yes. 09:16AM

19 Q. And it shows that the address of this company, 09:16AM
20 Whirlwide Helicopters, Inc., is in Vanuatu; correct, sir? 09:16AM

21 A. It says Vanuatu; yes. 09:16AM

22 Q. Okay. Not like the one we just saw where the same 09:16AM
23 company or the same named company had an address in Guam; 09:16AM
24 correct, sir? 09:16AM

25 A. Same company, two different addresses; yes. 09:16AM

1 Q. Same named company? We don't know if it's the same 09:16AM
2 company, do we? 09:16AM
3 A. It's the same -- benefits the same person. 09:16AM
4 Q. The same named company, sir, we don't know -- I 09:16AM
5 didn't ask you who it benefitted. And we're going to get in 09:16AM
6 this discussion and be here a long time if you don't -- 09:16AM
7 because if you don't understand the question, I'll re-ask it, 09:16AM
8 okay? 09:16AM
9 A. Sure. 09:16AM
10 Q. The same named company, the company has the same 09:16AM
11 name? 09:17AM
12 A. Yes, the company has the same name. 09:17AM
13 Q. Okay. Now let's go down to the seller. Do you see 09:17AM
14 where it says seller on the left-hand side there? 09:17AM
15 A. Yes. 09:17AM
16 Q. Okay. Do you see the name of the seller, sir? 09:17AM
17 A. Yes. 09:17AM
18 Q. And the name of the seller is Whirlwide Helicopters, 09:17AM
19 Inc.; correct? 09:17AM
20 A. Yes. 09:17AM
21 Q. And the address of Whirlwide Helicopters, Inc. is in 09:17AM
22 Guam; correct, sir? 09:17AM
23 A. Yes. 09:17AM
24 Q. Okay. And so from this form, that is kept by the 09:17AM
25 Federal Aviation Administration, it's on their records, you 09:17AM

Cross - Khamvongsa

1 can get access to it any time you want, right?

09:17AM

2 A. Yes.

09:17AM

3 Q. This form shows that the company named Whirlwide
4 Helicopters in Guam sold this helicopter to a company named
5 Whirlwide Helicopters in Vanuatu; correct, sir?

09:17AM

09:18AM

09:18AM

6 A. That's what this document reflects; yes.

09:18AM

7 Q. Okay. That's what I'm asking. I'm asking what the
8 document reflects. Thank you. And, again, the seller or
9 co-owner as reflected in the document, looks like Mr. Walker's
10 signature, doesn't it, sir?

09:18AM

09:18AM

09:18AM

09:18AM

11 A. Yes.

09:18AM

12 Q. Okay. Now, if we go to Government's Exhibit 752-50.
13 Do you recognize that, sir, as being a record kept in the
14 normal course of business by the Federal Aviation
15 Administration?

09:18AM

09:18AM

09:18AM

09:18AM

16 A. Yes.

09:18AM

17 Q. And this is an aircraft registration application;
18 correct, sir?

09:18AM

09:19AM

19 A. Yes.

09:19AM

20 Q. And you know from the testimony of other witnesses,
21 because you've been sitting in the courtroom, particularly
22 Wendy Hedrick, that you can't apply for a registration without
23 some form of bill of sale; correct, sir?

09:19AM

09:19AM

09:19AM

09:19AM

24 A. I do recall something to that effect; yes.

09:19AM

25 Q. Okay. So Whirlwide Helicopters, Inc. in Vanuatu

09:19AM

1 cannot apply for a registration of a helicopter without a bill
2 of sale. Would you agree with that, sir?

3 A. You're asking if a bill of sale needs to be required
4 accompanying this?

5 Q. Yes.

6 A. Yes.

7 Q. Okay. As a matter of fact, we just saw a bill of
8 sale in Government's Exhibit 752-52 that we were just talking
9 about, didn't we, sir?

10 A. The paperwork, yes.

11 Q. Yes.

12 A. Yes.

13 Q. That the FAA keeps in the normal course of business,
14 right, sir?

15 A. Yes.

16 Q. Okay. And so this application for registration of
17 helicopter 60 -- excuse me, 9068F, it's the same helicopter;
18 correct, sir?

19 A. I don't know if it's the same helicopter, but it's
20 the same U.S. registration.

21 Q. The number is the same?

22 A. The U.S. registration number is the same.

23 Q. Right. And I'm not going to argue with you about
24 that, but the number is the same; correct, sir?

25 A. The U.S. registration number is the same.

1 Q. All right. And if we could go back to 752-52? 09:20AM

2 THE COURT: I'm sorry, 752- -- 09:20AM

3 MR. MARTIN: 52, Your Honor. 09:20AM

4 THE COURT: 52, okay. 09:20AM

5 BY MR. MARTIN: (CONTINUING) 09:20AM

6 Q. Sir, do you see there the aircraft serial number on
7 the bill of sale? 09:21AM

8 A. Yes. 09:21AM

9 Q. 2109 -- 2109 -- getting a little dyslexic here.
10 2-1-0-2-9-3-S, would you agree that's the serial number
11 registered? 09:21AM

12 A. Yes, sir. It's reflected on the registration right
13 there. 09:21AM

14 Q. Now, let's go back to Government's Exhibit 52, excuse
15 me, 752-50; do you see the aircraft serial number listed on
16 that bill of sale, sir? 09:21AM

17 A. Yes. 09:21AM

18 Q. 2-1-0-2-9-3-S, do you see that, sir? 09:21AM

19 A. Yes. It's reflected on the document there. 09:21AM

20 Q. And it's the same serial number that was reflected on
21 the bill of sale that we just looked at; correct, sir? 09:21AM

22 A. It's the same serial number on the other document;
23 yes. 09:21AM

24 Q. Okay. And so this application for registration of
25 this helicopter with this company in Vanuatu, if we could go 09:22AM

1 on down, was actually signed by Mr. Walker, right?

09:22AM

2 A. Yes, that's his signature, signed as president.

09:22AM

3 Q. Of the corporation that is located in Vanuatu?

09:22AM

4 A. Yes.

09:22AM

5 Q. Okay. Now -- I'm through with that document.

09:22AM

6 The FAA, in their records, and we've seen them
7 throughout this trial, have every transaction for the
8 registration -- the bill of sale and registration of every
9 helicopter that we are talking about in this indictment; isn't
10 that true, sir?

09:22AM

09:22AM

09:22AM

09:22AM

09:22AM

11 A. The FAA has that information; yes.

09:22AM

12 Q. Okay. And so it's not like it's hidden from anyone,
13 is it, sir?

09:22AM

09:23AM

14 A. It is hidden.

09:23AM

15 Q. The FAA registration information is hidden?

09:23AM

16 A. The --

09:23AM

17 Q. The FAA information we just went over is hidden, sir?

09:23AM

18 A. The information is incorrect on there, sir.

09:23AM

19 Q. No, my question -- you misunderstood my question.
20 And I'm sorry, so I'll repeat it. The FAA information that we
21 just saw that is on their records is hidden; is that true,
22 sir?

09:23AM

09:23AM

09:23AM

09:23AM

23 A. The information reported to the FAA is hidden.

09:23AM

24 Q. So you're telling me that what we just saw, 752-52,
25 nobody can have access to?

09:23AM

09:23AM

1 A. Oh, no, everybody can have access to it, but the
2 information is in- -- reported to the FAA incorrectly.

3 Q. I didn't ask you anything about the correctness of
4 the information, did I, sir?

5 A. No, but you asked --

6 Q. Did you ask -- did I ask you anything about the
7 information, the incorrectness of any of that information,
8 sir?

9 A. Sir, as you --

10 Q. Did I ask you anything about the incorrectness of
11 that information, sir?

12 A. It sounded like it to me.

13 Q. It sounded like it to you? If you misunderstand me,
14 sir, you can ask me to rephrase the question. Did I use the
15 word *incorrect* in any of my questions other than the one I
16 just asked?

17 A. No, but you asked if it was available and so with
18 that... there is the inference of correctness.

19 Q. Oh, there is an inference of correctness? The fact
20 that a document is available draws with it the inference of
21 correctness?

22 A. Yeah, it does. In the U.S. government, yes, it does,
23 because everything is signed and certified --

24 Q. I didn't ask you to give me a narrative, sir. I
25 asked you one question. It was a simple yes or no. Did you

1 understand that?

09:24AM

2 A. I understand that question, yes, sir.

09:24AM

3 Q. Okay. So... let's go to what has previously been
4 marked -- marked and introduced as Government's Exhibit 366-4.

09:24AM

09:25AM

5 THE CLERK: One moment, please.

09:25AM

6 (Pause.)

09:25AM

7 BY MR. MARTIN: (CONTINUING)

09:25AM

8 Q. Do you see that document, sir?

09:25AM

9 A. Yes, sir.

09:25AM

10 Q. This document has previously been introduced in this
11 case. Can we blow it up just a little bit? Maybe center it.
12 There we go.

09:25AM

09:26AM

09:26AM

13 This document is relating to the FAA registry;
14 correct, sir?

09:26AM

09:26AM

15 A. Yes, sir.

09:26AM

16 Q. And as a matter of fact, it deals with a helicopter
17 that has been assigned an N-number, N1DQ. Do you see that,
18 sir?

09:26AM

09:26AM

09:26AM

19 A. Yes, sir.

09:26AM

20 Q. I put a little deal there.

09:26AM

21 A. Thank you.

09:26AM

22 Q. Okay. And it actually has a serial number, doesn't
23 it, sir?

09:26AM

09:26AM

24 A. It has a serial number. Recorded serial number, yes.

09:26AM

25 Q. Okay. And that is an aircraft that is registered

09:26AM

1 that says the registered owner right over here, registered
2 owner, is a company called Evan's Air, Inc. Do you see that
3 sir?

4 A. Yes, sir.

5 Q. And the country is Vanuatu, isn't it, sir?

6 A. What's listed there is Vanuatu. You're correct, sir.

7 Q. And this is the FAA registry, this is a document that
8 the federal government has at their disposal at any time,
9 right, sir?

10 A. Yes.

11 Q. And as a matter of fact, Evan's Air is on this list,
12 is it not, sir?

13 A. It's on that document -- or 829, yes, sir.

14 Q. Right. Am I pointing at it? Can you see?

15 A. No. Yes, sir, it's right there.

16 Q. Okay.

17 A. Thank you.

18 Q. And it's listed as a registration as a corporation;
19 correct, sir? Do you see that?

20 A. It's identified as a registered owner on this
21 document -- as a corporation, yes.

22 Q. Yeah.

23 A. Yes.

24 Q. So we have a -- if we could take it up just a little
25 further. Perfect. So we have -- an N-number aircraft,

1 registered as a corporation, under a corporation name Evan
2 Air, Inc., the country is Vanuatu; correct?

3 A. The country is Vanuatu; yes.

4 Q. One of the names of the corporations on Government's
5 Exhibit 829; correct, sir?

6 A. Yes.

7 Q. And that helicopter that is identified in the FAA
8 registry, this document, has value, doesn't it, sir?

9 A. Absolutely.

10 Q. And it is -- registered owner is a Vanuatu
11 corporation; correct, sir?

12 A. It's what's reflected on here; yes.

13 Q. Okay, if we could go to -- I think on the same
14 exhibit, if we could go down, there is another, and I
15 apologize, Carmen, could we take my yellow stickies off.
16 Thank you. Another FAA document; correct, sir?

17 A. Yes, sir.

18 Q. And this one deals with, and I can point it out if I
19 need to, a helicopter with N-number N1042N. Do you see that,
20 sir?

21 A. Yes.

22 Q. And it has a serial number. Do you see that, sir?

23 A. Yes.

24 Q. Okay. And this one, the registered owner at the FAA
25 is Jan's Helicopter Services, Inc.; correct, sir?

1 A. The purported owner is Jan's Helicopter Service, Inc. 09:30AM

2 Q. The owner that the FAA has on their registry is Jan's 09:30AM
3 Helicopter Services, Inc; correct, sir? 09:30AM

4 A. What's literally on here is Jan's Helicopter Service, 09:30AM
5 Inc., yes. 09:30AM

6 Q. Okay. And the country is Vanuatu; correct, sir? 09:30AM

7 A. Yes. 09:30AM

8 Q. And the type of registration is corporation; correct, 09:30AM
9 sir? 09:30AM

10 A. Type of registration, corporation; yes. 09:30AM

11 Q. And I'll bring this back over there. 09:30AM

12 A. Thank you, sir. 09:30AM

13 Q. Jan's helicopter is on this list, is it not, sir? 09:30AM

14 A. Yes, right here. 09:30AM

15 Q. Okay. 09:30AM

16 THE COURT: I'm sorry, Mr. Martin, I have to take 09:30AM
17 an urgent call, so let's -- 09:31AM

18 MR. MARTIN: Sorry, Your Honor. 09:31AM

19 THE COURT: No, that's okay. It's not your 09:31AM
20 fault. I just got a message. So 20 minutes, ladies and 09:31AM
21 gentlemen of the jury. We'll be right back, keep an open 09:31AM
22 mind. We'll come right back. 09:31AM

23 (Jury out at 9:31 a.m.) 09:31AM

24 (Recess taken at 9:35 a.m.) 09:35AM

25 (Back on the record at 10:19 a.m.) 10:19AM

1 THE COURT: We're back on the record. All 10:19AM
2 Counsels are present, and let's go ahead and continue. I 10:19AM
3 apologize for that. I had to take that call. Call in the 10:19AM
4 jury. 10:19AM

5 Mr. Martin, I apologize for cutting you up -- 10:19AM
6 cutting your examination there. 10:19AM

7 MR. MARTIN: No apology needed, Your Honor. 10:19AM

8 (Pause.) 10:19AM

9 THE COURT: Is our computer still messed up? 10:19AM
10 Carm? 10:19AM

11 (Discussion with clerk.) 10:19AM

12 (Jury in at 10:20 a.m.) 10:20AM

13 THE COURT: Please be seated, ladies and 10:21AM
14 gentlemen of the jury. Thank you for your patience, and we'll 10:21AM
15 go ahead and allow Mr. Martin to continue on with his 10:21AM
16 cross-examination. 10:21AM

17 MR. MARTIN: Thank you, Your Honor. I believe we 10:21AM
18 had up on the monitor Government's Exhibit 366-4, the bottom. 10:21AM
19 There is two FAA registrations, if we could pull that back up. 10:21AM
20 The bottom of the page, I think it was Jan's we were on, 10:22AM
21 because that's Evan's Air. 10:22AM

22 BY MR. MARTIN: (CONTINUING) 10:22AM

23 Q. Agent, you remember we were talking about Jan's 10:22AM
24 Helicopter Services? 10:22AM

25 A. I remember we were talking about this FAA registry, 10:22AM

1 but I don't remember the discussion before the break. 10:22AM

2 Q. Well, just for recollection purposes, this is the 10:22AM
3 second one on that list. Do you recall that, sir? 10:22AM

4 A. Yes. 10:22AM

5 Q. Okay. And it has an N-number. It has a serial 10:22AM
6 number. It says it's a corporation. The name of the 10:22AM
7 corporation is Jan's Helicopter, Inc. The country is Vanuatu. 10:22AM
8 Do you agree with that, sir? 10:22AM

9 A. Yes, that's what's purported on there; yes. 10:22AM

10 Q. And I think we went through this, and we found that 10:22AM
11 Jan's Helicopter Services, Inc. is on this list, right here? 10:22AM

12 A. It's at the bottom of this list; yes. 10:22AM

13 Q. This is Government's 829, right, sir? 10:22AM

14 A. Yes, sir. 10:22AM

15 Q. And consistent with your prior testimony, you'll 10:22AM
16 agree with me, won't you, sir, that a helicopter -- that 10:23AM
17 helicopter is an asset? 10:23AM

18 A. Consistent with my prior testimony? 10:23AM

19 Q. Well, you testified earlier that the other one was an 10:23AM
20 asset so I'll ask a different question. That helicopter is an 10:23AM
21 asset, isn't it, sir? 10:23AM

22 A. The helicopter is an asset to an entity or a person. 10:23AM

23 Q. It's an asset, isn't it, sir? 10:23AM

24 A. Yes. 10:23AM

25 Q. Okay. If we could go to Government's Exhibit 366-5. 10:23AM

1 Do you see that, sir? 10:23AM

2 A. Yes. 10:23AM

3 Q. And would you agree with me, sir, this is the FAA 10:23AM

4 registry and the records that are kept in the normal course of 10:23AM

5 business of the FAA, sir? 10:23AM

6 A. As it's record with the FAA; yes. 10:23AM

7 Q. Okay. Kept in the normal course of business? 10:24AM

8 A. Yes. 10:24AM

9 Q. Okay. 10:24AM

10 A. It's available online. 10:24AM

11 Q. And it relates to helicopter N105FM. Would you agree 10:24AM

12 with that, sir? 10:24AM

13 A. N105FM is reflected on this document; yes, sir. 10:24AM

14 Q. It has a serial number; correct? 10:24AM

15 A. Yes, sir. 10:24AM

16 Q. It's registered as a corporation; correct? 10:24AM

17 A. Yes, sir. 10:24AM

18 Q. The name of the corporation as registered is Hampton 10:24AM

19 Helicopters, Inc.; correct, sir? 10:24AM

20 A. It's purported to be Hampton Helicopters, Inc.; yes, 10:24AM

21 sir. 10:24AM

22 Q. No, it's not purported. It actually says *Hampton* 10:24AM

23 *Helicopters Inc.*; correct, sir? 10:24AM

24 A. It's -- yes. 10:24AM

25 Q. Okay. And the country is Vanuatu; correct, sir? 10:24AM

1 A. Yes.

10:24AM

2 Q. And, again, I'm going to show you what's been
3 previously used as Government's Exhibit 829; is Hampton
4 Helicopters, Inc. on this list, sir?

10:24AM

10:25AM

10:25AM

5 A. Yes.

10:25AM

6 Q. Right there where I'm pointing my finger?

10:25AM

7 A. It's right there, sir. Yes.

10:25AM

8 Q. Okay. And is this helicopter N105FM an asset, sir?

10:25AM

9 A. It's an asset.

10:25AM

10 Q. Okay. If we could go to the next one. Do you see,
11 sir, what's up on the monitor now, which is Government's
12 Exhibit 366-, I believe it's 5, at the bottom of the page.
13 Would you agree with me, sir, that that is a record kept in
14 the regular course of business of the FAA?

10:25AM

10:25AM

10:25AM

10:25AM

10:26AM

15 A. Yes.

10:26AM

16 Q. And that it relates to helicopter N1156X, that's the
17 registration?

10:26AM

10:26AM

18 A. It's reflected as the U.S. registration for N1156X;
19 yes.

10:26AM

10:26AM

20 Q. And it has a serial number; correct?

10:26AM

21 A. Yes.

10:26AM

22 Q. And the registration is a corporation; correct?

10:26AM

23 A. A U.S. corporation; yes.

10:26AM

24 Q. That doesn't say "U.S. corporation," it says
25 "corporation," doesn't it, sir?

10:26AM

10:26AM

1 A. It's a corporation as reflected on what's here, it's
2 an FAA registry, and it's reflected as a -- it's a corporation
3 with the U.S., otherwise it would say "non-citizen
4 corporation" or something to that effect.

5 Q. Does it say "individual" on there, sir?

6 A. It says "corporation," sir.

7 Q. Okay. And the letters "U period, S period" aren't on
8 that document, are they, sir?

9 A. It's a U.S. corporation -- no, it's literally not on
10 that document; you're correct.

11 Q. I'm asking you about this document. If you don't
12 understand the document I'm talking to you about, please
13 interrupt me, and I'll make sure we're on the same page. I am
14 talking to you about this document, nothing else. Okay?

15 A. Yes, sir.

16 Q. Okay. And when I bring up another document, I'm
17 talking to you about that document and nothing else. Okay?

18 A. All right. So you just want me to focus on what I
19 see specifically on this document, yes, sir.

20 Q. Correct.

21 A. Yes, sir.

22 Q. Very good. Very good. That's -- this is the FAA
23 registry, a business record kept by them in the normal course
24 of business; correct?

25 A. Yes.

1 Q. And their document reflects that the word type of 10:27AM
2 registration says "corporation"; correct, sir? 10:27AM
3 A. Corporation; yes. 10:27AM
4 Q. And the name of the corporation is Walker Helicopter, 10:27AM
5 Inc.; correct, sir? 10:27AM
6 A. Walker Helicopter, Inc. is identified on this 10:27AM
7 document; yes. 10:27AM
8 Q. And the country is Vanuatu; correct, sir? 10:27AM
9 A. Vanuatu is the country identified on this document; 10:27AM
10 yes. 10:27AM
11 Q. And is Walker Helicopter, Inc. on Government's 10:27AM
12 Exhibit 829, sir? 10:28AM
13 A. Yes, sir. Right where your finger is, sir. 10:28AM
14 Q. Okay. And is this helicopter an asset, sir? 10:28AM
15 A. An asset for Hansen Helicopters; yes. 10:28AM
16 Q. Did I ask you anything about Hansen Helicopters, sir? 10:28AM
17 A. You asked if it's an asset; yes. 10:28AM
18 Q. Did I ask you anything about Hansen Helicopters, sir? 10:28AM
19 A. This case is about Hansen Helicopters -- 10:28AM
20 Q. Did I ask you anything about Hansen Helicopters? Is 10:28AM
21 that a question you're having difficulty understanding? 10:28AM
22 A. No, sir. 10:28AM
23 Q. Okay. Now, can you answer the question? Did I ask 10:28AM
24 you anything about Hansen Helicopters? 10:29AM
25 A. No, sir. 10:29AM

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1 Q. Okay. Now, let's try that again. Is that helicopter
2 an asset?

3 A. It's an asset.

4 Q. And as a matter of fact, the FAA says the registered
5 owner is Walker Helicopters, Inc., doesn't it, sir?

6 A. Actually, the person who registered this says it
7 belongs to Walker Helicopters, Inc.

8 Q. Actually, my question was, sir, the FAA registry says
9 that the registered owner is Walker's Helicopters, Inc.; isn't
10 that what the registry says, sir?

11 A. Yes, that's what the registry says.

12 Q. Okay. Thank you. If we could go to, I believe the
13 next one is Government's Exhibit 366-6. Do you see that
14 document, sir?

15 A. Yes, sir.

16 Q. Is that a record that is kept in the normal course of
17 business of the FAA, known as the FAA registry?

18 A. FAA registry, yes.

19 Q. And is this particular document dealing with aircraft
20 number N126BC?

21 A. It's -- it's U.S. registration number N126BC.

22 Q. All right. It has a serial number, doesn't it, sir?

23 A. It has a serial number, yes.

24 Q. And it's registered as a corporation, correct, sir?
25 That's what it says?

1 A. Yes.

10:30AM

2 Q. And the corporation is called Bill's Air Services,
3 Inc.; correct; sir?

10:30AM

10:30AM

4 A. Bill's Air Service, Inc. is the -- is identified
5 there in the name; yes.

10:30AM

10:30AM

6 Q. And it's also identified as the registered owner;
7 correct, sir?

10:30AM

10:30AM

8 A. It's listed under the registered owner; yes.

10:30AM

9 Q. Okay. And it's -- Vanuatu is the country; correct
10 sir?

10:30AM

10:30AM

11 A. Vanuatu company -- or Vanuatu is the country listed
12 on the document; yes.

10:30AM

10:30AM

13 Q. All right, sir. And I have in my hand Government's
14 Exhibit 829; is Bill's Air Services identified on that?

10:31AM

10:31AM

15 A. Yes, where your finger is.

10:31AM

16 Q. Okay. And this helicopter is an asset; correct, sir?

10:31AM

17 A. It's an asset.

10:31AM

18 Q. All right. If we could go to the bottom of that
19 page. Do you see the document now on the page, sir?

10:31AM

10:31AM

20 A. Yes, sir.

10:31AM

21 Q. And would you agree with me, sir, that this is a
22 document from the federal aviation registry kept in the normal
23 course of business?

10:31AM

10:31AM

24 A. This is -- yes.

10:31AM

25 Q. And would you agree with me, sir, that it deals with

10:31AM

1 an aircraft with the registration number N129BC?

10:32AM

2 A. It deals with the U.S. registration number N129BC.

10:32AM

3 Q. Has a serial number; correct, sir?

10:32AM

4 A. Yes, sir.

10:32AM

5 Q. Registered as a corporation; correct, sir?

10:32AM

6 A. Corporation; yes, sir.

10:32AM

7 Q. The name is of the corporation is Spotters, Inc.;
8 correct, sir?

10:32AM

9 A. Spotters, Inc. is listed there; yes, sir.

10:32AM

10 Q. And it's listed there as the registered owner;
11 correct, sir?

10:32AM

12 A. It's underneath registered owner; yes, sir.

10:32AM

13 Q. And the country is Vanuatu; correct, sir?

10:32AM

14 A. The country identified there is Vanuatu; yes, sir.

10:32AM

15 Q. And I'm again going to show you Government's
16 Exhibit 829. Do you see Spotters, Inc. on Government's
17 Exhibit 829, sir?

10:32AM

10:32AM

18 A. Spotters, Inc. is right where your finger is at.

10:32AM

19 Q. Okay. And that helicopter is an asset; correct, sir?

10:33AM

20 A. The helicopter, it would be an asset; yes.

10:33AM

21 Q. All right, sir. If we could go to 366-7. Do you see
22 that document, sir?

10:33AM

23 A. Yes, sir.

10:33AM

24 Q. Would you agree that it is from the FAA registry and
25 record kept in the normal course of business?

10:33AM

1 A. Yes. 10:33AM

2 Q. Would you agree, sir, that this entry in the registry 10:33AM
3 deals with the registration number aircraft N153EH? 10:33AM

4 A. U.S. registration number N153EH; yes. 10:33AM

5 Q. All right, sir. That aircraft also has a serial 10:33AM
6 number; correct, sir? 10:33AM

7 A. Yes, sir. 10:33AM

8 Q. And the name of the registered owner in the registry 10:33AM
9 is Tuna Copters; correct, sir? 10:34AM

10 A. Tuna Copters is identified there; yes. 10:34AM

11 Q. And the country is Vanuatu; correct, sir? 10:34AM

12 A. Vanuatu is listed on that document; yes. 10:34AM

13 Q. I'm going to show you again Government's Exhibit 829, 10:34AM
14 sir. Is Tuna Copters on that list? 10:34AM

15 A. Yes, right where your finger is pointing. 10:34AM

16 Q. Okay. And is that helicopter, that aircraft, an 10:34AM
17 asset, sir? 10:34AM

18 A. That helicopter would be an asset; yes. 10:34AM

19 Q. If we could go to the next -- same page. Do you see 10:34AM
20 that document, sir? 10:35AM

21 A. Yes. 10:35AM

22 Q. Is that a record kept in the normal course of 10:35AM
23 business with the FAA registry? 10:35AM

24 A. Yes. 10:35AM

25 Q. And does this document deal with a helicopter with 10:35AM

1 registration number -- an aircraft with registration number
2 N190M?

3 A. Regarding U.S. registration number N190M.

4 Q. Okay, so you're agreeing with me?

5 A. Yes, sir.

6 Q. It has a serial number; correct, sir?

7 A. There is a serial number reflected; yes.

8 Q. And the registered owner listed on the FAA registry
9 is Jan's Helicopter Services, Inc.; correct, sir?

10 A. Jan's Helicopter Service, Inc. is identified on this;
11 yes.

12 Q. And this is a Vanuatu corporation or Vanuatu country,
13 that's what it says?

14 A. That's what it says, Vanuatu.

15 Q. Right. And I could bring the board back up there,
16 but you remember already testifying about Jan's Helicopter
17 being on this board, sir?

18 A. Yes, sir.

19 Q. Okay. And you'll agree with me, won't you, sir, that
20 that helicopter is an asset; correct?

21 A. The helicopter is an asset.

22 Q. Okay. If we could go to the next one, which is
23 Government's Exhibit 3006, dash, I believe it's 8. Do you see
24 that document, sir?

25 A. Yes.

1 Q. Would you agree with me, sir, that this is a document
2 kept in the normal course of business relating to the FAA
3 registry by the FAA?

4 A. Yes.

5 Q. And would you agree with me, sir, that this document
6 kept by the FAA relates to the registration N192PB?

7 A. Yes.

8 Q. Okay. And it has a serial number, doesn't it, sir?

9 A. Yes.

10 Q. And the registered owner on the FAA document is
11 Micronesian Aviation Corporation, Inc. Do you see that?

12 A. Yes.

13 Q. And the country is, I believe that says North
14 Marianas, sir?

15 A. Yes.

16 Q. Okay. I've got Government's 829 here. Do you see
17 that company on this chart, sir?

18 A. I do not.

19 Q. Okay. But that aircraft is an asset; would you agree
20 with me, sir?

21 A. It's an asset, yes.

22 Q. All right, sir. If we could go to the next one. Do
23 you see the record in front of you there, sir?

24 A. Yes.

25 Q. Would you agree with me, sir, that that is a record

1 from the registry of the federal aviation authority that's
2 kept in a normal course of business?

3 A. Yes.

4 Q. Would you agree, sir, that it deals with helicopter
5 registered number N26892?

6 A. Yes, that's N26892, U.S. registration number, that's
7 correct.

8 Q. Has a serial number; correct, sir?

9 A. There is a serial number identified there; yes.

10 Q. The registration says it's a corporation; correct,
11 sir?

12 A. Corporation identified there; yes.

13 Q. It says the registered owner is Williams -- Wilma's
14 Flight Services, Inc.; correct, sir?

15 A. Wilma's Flight Services, Inc. is identified on this
16 page; yes.

17 Q. All right. It says the country is Vanuatu, sir;
18 correct?

19 A. The country is Vanuatu; yes.

20 Q. And is Wilma's Flight Services -- my thumb is there,
21 is Wilma's Flight Services on this document, sir?

22 A. It's right by your thumb, sir.

23 Q. Okay. And would you agree with me, sir, that Wilma's
24 -- excuse me, would you agree with me, sir, that that
25 helicopter is an asset?

1 A. I'll agree that the helicopter is an asset. 10:39AM

2 Q. If we could go to the next one, please. Would you 10:39AM

3 agree, sir, that this -- the document we're looking at is the 10:40AM

4 registry of the FAA document kept by the Federal Aviation 10:40AM

5 Administration in the normal course of business? 10:40AM

6 A. Yes, yes. 10:40AM

7 Q. And that it deals with U.S. registration number N271M 10:40AM

8 aircraft? 10:40AM

9 A. Yes. 10:40AM

10 Q. That it has a serial number? 10:40AM

11 A. Yes. 10:40AM

12 Q. The registered owner reflected on the record is Jan's 10:40AM

13 Helicopters, Inc.; correct? 10:40AM

14 A. Jan's Helicopter Service, Inc. is on this document; 10:40AM

15 yes. 10:40AM

16 Q. Vanuatu corporation or Vanuatu country? 10:40AM

17 A. Vanuatu is identified on this document; yes. 10:40AM

18 Q. And we've talked about Jan's before, haven't we, sir, 10:40AM

19 on this document, on 829? 10:40AM

20 A. Jan's is on 829; yes. 10:40AM

21 Q. Okay. And that is -- that aircraft identified there 10:40AM

22 is an asset, wouldn't you agree, sir? 10:41AM

23 A. The aircraft is an asset, yes. 10:41AM

24 Q. If we can go to the next one. Again, this is a 10:41AM

25 document kept in the normal course of business on the FAA 10:41AM

1 registry, sir?

10:41AM

2 A. Yes.

10:41AM

3 Q. Relates to registration number N2949P; would you
4 agree with that, sir?

10:41AM

10:41AM

5 A. U.S. registration number N2949P is reflected on this
6 document; yes.

10:41AM

10:41AM

7 Q. So you're agreeing with me?

10:41AM

8 A. Yes, yes.

10:41AM

9 Q. Okay. It has a serial number; correct?

10:41AM

10 A. It has a serial number; yes.

10:41AM

11 Q. And it's listed as a corporation; correct?

10:41AM

12 A. Corporation is identified; yes.

10:41AM

13 Q. And the name of that corporation as a registered
14 owner is Heli Fish, Inc.; correct?

10:41AM

10:41AM

15 A. Heli Fish, Inc. is on this document; yes.

10:41AM

16 Q. And the country is Vanuatu?

10:41AM

17 A. The country identified is Vanuatu; yes.

10:42AM

18 Q. And would you agree with me, sir, that Heli Fish,
19 Inc. is on Government's Exhibit 829?

10:42AM

10:42AM

20 A. Yes.

10:42AM

21 Q. Okay. And this document, excuse me, I'll rephrase.

10:42AM

22 The aircraft identified in the registry as November 2949P, is
23 an asset, would you agree, sir?

10:42AM

10:42AM

24 A. The aircraft itself would be an asset; yes.

10:42AM

25 Q. Next one, please. Again, this is the FAA registry,

10:42AM

1 something that is kept in the normal corpus[sic] of business;
2 correct, sir?

3 A. Yes.

4 Q. And this document in particular is referring to an
5 aircraft with registration number N336HH; correct, sir?

6 A. N336HH, yes, it's identified there where you pointed;
7 yes.

8 Q. It has a serial number?

9 A. Yes, there is a serial number there; yes.

10 Q. Registration is a corporation?

11 A. There is a registration of a corporation there; yes.

12 Q. Shows, according to the FAA records, that the
13 registered owner is Foxtrot Air, Inc.; correct, sir?

14 A. Foxtrot Air, Inc. is identified on this document;
15 yes.

16 Q. As the registered owner?

17 A. Underneath registered owner; yes.

18 Q. Right. And that's what the FAA documents show. And
19 the country is Vanuatu; correct, sir?

20 A. Vanuatu is identified on this document; yes.

21 Q. And is Foxtrot Air, Inc. on this document, sir? If I
22 need to bring it over there, I will.

23 A. Could you bring it over, please? I just want to
24 confirm.

25 Q. Sure.

1 A. My apologies. 10:44AM

2 Q. No, that's fine. I don't want to -- 10:44AM

3 A. Yes. Right where your finger is, yes, sir. 10:44AM

4 Q. And that aircraft is an asset; correct, sir? 10:44AM

5 A. The aircraft is an asset. 10:44AM

6 Q. If we could go to the next one. Record kept in the 10:44AM

7 normal course of business of the FAA, again, sir; correct? 10:44AM

8 A. Yes, sir. 10:44AM

9 Q. And this deals with aircraft registered number 10:44AM

10 N336SP; correct, sir? 10:44AM

11 A. U.S. registration number N336SP is identified here; 10:44AM

12 yes, sir. 10:44AM

13 Q. Has a serial number? 10:44AM

14 A. Serial number is reflected there where you pointed it 10:44AM

15 out; yes. 10:44AM

16 Q. It's a corporation, it's registered as a corporation? 10:44AM

17 A. A corporation is identified on this document. 10:44AM

18 Q. The registered owner, according to the FAA registry, 10:45AM

19 is Alpha Air, Inc.; correct? Is? 10:45AM

20 A. Alpha Air, Inc. is identified on this document. 10:45AM

21 Q. And the location of that registered owner is Vanuatu, 10:45AM

22 as the country; correct, sir? 10:45AM

23 A. Vanuatu is identified on this document; yes. 10:45AM

24 Q. As the country; correct, sir? 10:45AM

25 A. Yes. 10:45AM

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1 Q. Okay. And is Alpha Air, Inc. on this document? 10:45AM

2 A. Could you bring it over just -- 10:45AM

3 Q. Absolutely. 10:45AM

4 A. -- to confirm. Thank you. 10:45AM

5 Q. I need the exercise. 10:45AM

6 A. Alpha -- there is a different spelling in the name. 10:45AM

7 Q. Okay. What's the -- 10:45AM

8 A. The difference is how they spelled Alpha. You have 10:45AM

9 A-L-F-A versus the A-L-P-H-A. 10:45AM

10 Q. Okay. All right. And you'll agree with me, will you 10:45AM

11 not, sir, that this aircraft that's been identified in the FAA 10:45AM

12 registry is an asset; correct, sir? 10:46AM

13 A. This helicopter is an asset. 10:46AM

14 Q. All right. And -- well... my technological skills 10:46AM

15 aren't that good. There we go. All right. Another document 10:46AM

16 kept in the normal course of business of the Federal Aviation 10:46AM

17 Administration; correct, sir? 10:46AM

18 A. Yes. 10:46AM

19 Q. And this document relates to an aircraft identified 10:46AM

20 as N369BK; correct, sir? 10:46AM

21 A. U.S. registration number N369BK is identified here; 10:46AM

22 yes, sir. 10:46AM

23 Q. It's got a serial number, correct, sir? 10:46AM

24 A. A serial number is identified on this document; yes. 10:46AM

25 Q. It's identified as a type of registration as a 10:46AM

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1 corporation; correct, sir?

10:46AM

2 A. A corporation is identified on this document; yes.

10:46AM

3 Q. And the FAA records reflect that the registered owner
4 is a company called Charlie Air, Inc.; correct, sir?

10:46AM

10:46AM

5 A. Charlie Air, Inc. is on this document; yes.

10:46AM

6 Q. And the country listed for the address of Charlie Air
7 Inc. is Vanuatu; correct, sir?

10:46AM

10:47AM

8 A. Vanuatu is the country; yes.

10:47AM

9 Q. And is Charlie Air, Inc. listed on Government's
10 Exhibit 0829?

10:47AM

10:47AM

11 A. Yes, right where your finger is located, sir. Thank
12 you.

10:47AM

10:47AM

13 Q. And is this helicopter an asset, sir?

10:47AM

14 A. This helicopter is an asset.

10:47AM

15 Q. Okay. If we could go to the next one. Again, this
16 document kept in the normal course of business of the Federal
17 Aviation Administration; correct?

10:47AM

10:47AM

18 A. This document; yes.

10:47AM

19 Q. And it relates to an aircraft with registration
20 number N369V; correct, sir?

10:47AM

10:47AM

21 A. U.S. registration number N369V is identified there;
22 yes.

10:47AM

10:47AM

23 Q. Has a serial number, right, sir?

10:47AM

24 A. There is a serial number; yes.

10:48AM

25 Q. And the registration is a corporation?

10:48AM

1 A. Corporation is identified. 10:48AM

2 Q. And the corporation listed as a registered owner is 10:48AM
3 Foxtrot Air, Inc.; correct, sir? 10:48AM

4 A. Foxtrot Air, Inc. is identified on this document. 10:48AM

5 Q. And the location of Foxtrot Air, Inc. is indicated to 10:48AM
6 be the country of Vanuatu; correct, sir? 10:48AM

7 A. Vanuatu is identified on this document. 10:48AM

8 Q. And I do need to bring this chart up there, or are 10:48AM
9 you familiar with Foxtrot Air, Inc.? 10:48AM

10 A. I'll save you the journey over here, and Foxtrot Air 10:48AM
11 is identified on that document. 10:48AM

12 Q. And the document I'm referring to is Government's 10:48AM
13 Exhibit 829; correct, sir? 10:48AM

14 A. Yes, sir. 10:48AM

15 Q. All right. And you'll agree with me, sir, that this 10:48AM
16 helicopter reflected in the FAA registry is an asset; correct, 10:48AM
17 sir? 10:48AM

18 A. N369V, the helicopter; yes, it's an asset. 10:48AM

19 Q. All right, sir. Again, I think we're at G-366-12. 10:48AM
20 This is a record kept in the normal course of business of the 10:49AM
21 Federal Aviation Administration; correct, sir? 10:49AM

22 A. Yes. 10:49AM

23 Q. And it deals with an aircraft identified by 10:49AM
24 registration number is N369MV; correct, sir? 10:49AM

25 A. Yes. It's U.S. registration number N369MV. 10:49AM

1 Q. It has a serial number; correct, sir? 10:49AM
2 A. Yes. 10:49AM
3 Q. The type of registration is a corporation. Would you 10:49AM
4 agree, sir? 10:49AM
5 A. Corporation is identified on here; yes. 10:49AM
6 Q. The registered owner, according to the FAA registry, 10:49AM
7 is Heli Fish, Inc.; correct, sir? 10:49AM
8 A. Heli Fish is identified on this document. 10:49AM
9 Q. And the country of Heli Fish, Inc. is identified as 10:49AM
10 Vanuatu; correct, sir? 10:49AM
11 A. Vanuatu is identified; yes. 10:49AM
12 Q. And I could bring this over there, or I think you've 10:49AM
13 already identified it, but Heli Fish, Inc. is on Government's 10:49AM
14 Exhibit 829, isn't it, sir? 10:50AM
15 A. Yes, sir. Thank you. 10:50AM
16 Q. Okay. And would you agree with me that the 10:50AM
17 helicopter identified in this document is an asset? 10:50AM
18 A. The helicopter itself is an asset. 10:50AM
19 Q. All right. If we can go to the next one. Again, 10:50AM
20 from the FAA registry, a record kept in the normal course of 10:50AM
21 business. Would you agree with that, sir? 10:50AM
22 A. Yes. 10:50AM
23 Q. And this listing from the FAA registry relates to an 10:50AM
24 aircraft register under N369PF. Would you agree with that, 10:50AM
25 sir? 10:50AM

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1 A. N369PF is identified here; yes. 10:50AM
2 Q. It has a serial number; correct, sir? 10:50AM
3 A. Yes. 10:50AM
4 Q. The type of registration is corporation; correct, 10:50AM
5 sir? 10:50AM
6 A. Type of registration says corporation on the 10:50AM
7 document; yes. 10:50AM
8 Q. And the registered owner, according to the FAA 10:50AM
9 registry, is Bill's Air Service, Inc.; correct, sir? 10:50AM
10 A. Bill's Air Service, Inc. is identified here; yes. 10:51AM
11 Q. And the country for Bill's Air Service, Inc. is 10:51AM
12 Vanuatu; correct, sir? 10:51AM
13 A. Vanuatu is identified here; yes. 10:51AM
14 Q. Okay. And are you familiar with Bill's Air, Inc.? 10:51AM
15 Is it on this list? 10:51AM
16 A. This -- could you bring it over? 10:51AM
17 Q. Sure. 10:51AM
18 A. Yes, where your finger is located. Thank you. 10:51AM
19 Q. Okay. And this aircraft, you'll agree with me, sir, 10:51AM
20 is -- pardon me, is an asset; correct? 10:51AM
21 A. This aircraft is an asset. 10:51AM
22 Q. If we could go to the next one. Government's 10:51AM
23 Exhibit 366-13. Do you see that document, sir? 10:51AM
24 A. Yes. 10:51AM
25 Q. Would you agree with me, sir, that this is a record 10:51AM

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1 kept in the normal course of business by the Federal Aviation
2 Administration?

3 A. Yes.

4 Q. And that it deals specifically with an aircraft
5 identified by registration number is N40490?

6 A. That is a U.S. registration number N40490; yes,
7 identified here; yes.

8 Q. Okay. Has a serial number?

9 A. Yes.

10 Q. Type of registration, corporation; correct, sir?

11 A. Corporation is identified here; yes.

12 Q. The registered owner according to the FAA registry is
13 Wilma's Flight Services, Inc.; correct, sir?

14 A. Wilma's Flight Services, Inc. is identified here;
15 yes.

16 Q. And the country for Wilma's Flight Services Inc. is
17 Vanuatu; correct, sir?

18 A. Vanuatu is identified on this document; yes.

19 Q. And if I need to, I'm happy to bring this over there,
20 but would you agree with me that Wilma's Flight Services is on
21 this document, Government's 829?

22 A. Yes.

23 Q. You're agreeing with me?

24 A. Yes.

25 Q. Okay. All right. And are you agreeing -- would you

1 agree with me, sir, that the aircraft identified as
2 November 40490 is an asset?

3 A. N40490 is an asset.

4 Q. Okay, sir. If we could go to the next one. Again,
5 sir, this is from the federal aviation registry, a document
6 kept in the normal course of business. Do you recognize that
7 document, sir?

8 A. Yes.

9 Q. And would you agree, sir, that this document relates
10 to an aircraft identified as N4206S?

11 A. U.S. registration number N4206S is identified here;
12 yes.

13 Q. And it has a serial number; correct, sir?

14 A. Yes, there is a serial number.

15 Q. And the type of registration is a corporation. Would
16 you agree with that, sir?

17 A. Corporation is identified on this document; yes.

18 Q. And the registered owner, according to the FAA's
19 records, is a company called Tuna Copter, Inc.; correct, sir?

20 A. Tuna Copters, Inc. is identified on this document.

21 Q. As a registered owner?

22 A. Underneath registered owner; yes.

23 Q. Okay. And the country for Tuna Copters, Inc. is
24 Vanuatu; correct, sir?

25 A. Vanuatu is identified on this document.

1 Q. And I've got in my hand Government's Exhibit 829. Do
2 you need to look at this document to verify that Tuna Copters,
3 Inc. is on there or not?

4 A. Tuna Copters is on there.

5 Q. Okay. All right. And would you agree with me, sir,
6 that the helicopter identified in this document, the
7 government's exhibit, is an asset?

8 A. The helicopter itself is an asset.

9 Q. If we could go to the next one. Again, we have a
10 document from the FAA registry kept in the normal course of
11 business; correct, sir?

12 A. Yes.

13 Q. And this particular document specifically deals with
14 the helicopter identified as N4250N. Would you agree with
15 that sir?

16 A. U.S. registered N4250N is on here; yes.

17 Q. Has a serial number; correct, sir?

18 A. Yes, serial number.

19 Q. Type of registration is a corporation, right, sir?

20 A. Corporation is on here; yes.

21 Q. Okay. And the registered owner, according to the FAA
22 registry, is Bean Bag Helicopters, Inc.; correct, sir?

23 A. Bean Bag Helicopters, Inc. is identified on this
24 document; yes.

25 Q. And the country for Bean Bag Helicopters, Inc. is

1 Vanuatu; correct, sir?

10:55AM

2 A. Vanuatu is identified on this document; yes.

10:55AM

3 Q. And, again, I have Government's Exhibit 829 is Bean
4 Bag on this document, sir?

10:55AM

10:55AM

5 A. Bean Bag is identified on that document, it's -- it's
6 the wholly -- Bean Bag wholly owns the 30 subsidiaries
7 underneath it.

10:55AM

10:55AM

8 Q. All right. And would you agree with me, sir, that
9 the aircraft identified on this exhibit as N4250N is an asset?

10:56AM

10:56AM

10 A. The helicopter N4250N is an asset.

10:56AM

11 Q. All right, sir. Would you agree to the next one. Do
12 you see that document, sir?

10:56AM

10:56AM

13 A. Yes.

10:56AM

14 Q. Do you recognize it as a document that's kept in the
15 normal course of business by the Federal Aviation
16 Administration as a business record?

10:56AM

10:56AM

17 A. Yes.

10:56AM

18 Q. And do you recognize, sir, that that document deals
19 specifically with an aircraft with a registration number
20 N444GJ?

10:56AM

10:56AM

10:56AM

21 A. U.S. registration number N444GJ is reflected on this
22 document.

10:56AM

10:56AM

23 Q. And it shows that the aircraft has a serial number;
24 correct, sir?

10:56AM

10:57AM

25 A. There is a serial number on this document; yes.

10:57AM

1 Q. Also shows that the type of registration for this 10:57AM
2 aircraft is corporation; correct, sir? 10:57AM

3 A. Corporation is identified on this document. 10:57AM

4 Q. And the FAA registry, the official business records 10:57AM
5 of the FAA, show that the registered owner of this aircraft is 10:57AM
6 a company named Foxtrot Air, Inc.; correct, sir? 10:57AM

7 A. Foxtrot Air, Inc. is identified on this document. 10:57AM

8 Q. All right. And the country for Foxtrot Air, Inc. is 10:57AM
9 Vanuatu; correct, sir? 10:57AM

10 A. Vanuatu is identified on this document. 10:57AM

11 Q. All right. And, again, I have Government's Exhibit 10:57AM
12 G-829, do you need to look at this document? Do I need to 10:57AM
13 bring it to you to see if it has Foxtrot Air, Inc. on it, or 10:57AM
14 do you remember? 10:57AM

15 A. No, thank you. I do recall it being on that 10:57AM
16 document. Thank you. 10:57AM

17 Q. Okay. And would you agree with me, sir, that the 10:57AM
18 aircraft identified in the FAA registry as November 444GJ is 10:58AM
19 an asset? 10:58AM

20 A. This -- yeah, N444GJ is an asset. 10:58AM

21 Q. All right, sir. If we could go to the next one. 10:58AM
22 Again, this is the FAA registry, a record kept in the normal 10:58AM
23 course of business. Would you agree with that, sir? 10:58AM

24 A. Yes. 10:58AM

25 Q. And, specifically, this page of the registry deals 10:58AM

1 with an aircraft identified as N454S; correct, sir? 10:58AM

2 A. That is U.S. registration number N454S; you're 10:58AM
3 correct, sir. 10:58AM

4 Q. And it has a serial number; correct? 10:58AM

5 A. A serial number is identified on this document; yes. 10:58AM

6 Q. And the type of registration reflected in the FAA 10:58AM
7 registry is a corporation; correct, sir? 10:58AM

8 A. Corporation is reflected on this document; yes. 10:58AM

9 Q. And the FAA registry, under registered owner, 10:58AM
10 reflects that the registered owner is Dave's Helicopter 10:59AM
11 Services, Inc.; correct, sir? 10:59AM

12 A. Dave's Helicopter Service, Inc. is identified on this 10:59AM
13 document; yes. 10:59AM

14 Q. As the registered owner? 10:59AM

15 A. It's underneath registered owner. 10:59AM

16 Q. Okay. And the country identified for Dave's 10:59AM
17 Helicopter, Inc. -- Dave's Helicopter Services, Inc., is 10:59AM
18 Vanuatu; correct, sir? 10:59AM

19 A. Vanuatu is identified on here; yes. 10:59AM

20 Q. All right. And is Dave's Helicopter Services, Inc. 10:59AM
21 on Government's Exhibit 829? I can bring it over there if you 10:59AM
22 need to see it? 10:59AM

23 A. I do recall Dave's Helicopter being on there, sir. 10:59AM

24 Q. Okay. All right. And would you agree with me, sir, 10:59AM
25 that the aircraft identified in the FAA registry as N454S, is 10:59AM

1 an asset?

10:59AM

2 A. N4 -- U.S.-registered number N454S, is a asset -- is
3 an asset. Excuse me.

10:59AM

11:00AM

4 Q. Okay. Do you see the next document that we've pulled
5 up, sir?

11:00AM

11:00AM

6 A. Yes, sir.

11:00AM

7 Q. And would you agree with me, sir, that this is a
8 document kept in the normal course of business of the Federal
9 Aviation Administration as a business record?

11:00AM

11:00AM

11:00AM

10 A. It's a business record; yes.

11:00AM

11 Q. Of the Federal Aviation Administration?

11:00AM

12 A. Yes.

11:00AM

13 Q. And, specifically, this document relates to an
14 aircraft that has been identified as N45777?

11:00AM

11:00AM

15 A. U.S. registration number N45777 is on here; yes.

11:00AM

16 Q. Okay. It has a serial number, doesn't it, sir?

11:00AM

17 A. There is a serial number; yes.

11:00AM

18 Q. And the type of registration reflects corporation;
19 correct, sir?

11:00AM

11:00AM

20 A. Corporation is identified; yes.

11:00AM

21 Q. And according to the FAA records, the registered
22 owner is Charlie Air, Inc; correct, sir?

11:00AM

11:00AM

23 A. Charlie Air, Inc. is identified on this document;
24 yes.

11:01AM

11:01AM

25 Q. Okay. And the corporation that's identified as

11:01AM

1 Charlie Air, Inc. reflects the country is Vanuatu; correct,
2 sir?

3 A. Vanuatu is identified on this document; yes.

4 Q. Okay. And I've got in my hand, and I'm happy to
5 bring it up there if you need to see it, Government's Exhibit
6 G-829, is Charlie Air, Inc. on this document?

7 A. Could you bring it --

8 Q. Sure. Absolutely.

9 A. Yes; yes. Charlie Air, Inc.; yes, sir.

10 Q. Okay. And would you agree with me, sir, the aircraft
11 that is identified on this document as N45777, is an asset?

12 A. U.S. registration N45777 is an -- is an asset.

13 Q. Okay. If we go to the next one. Do you recognize
14 the document? You are now looking at Government's
15 Exhibit 366-16, is a business record kept by the Federal
16 Aviation Administration in the normal course of business, sir?

17 A. Yes.

18 Q. Do you recognize, sir, that this specifically, this
19 document specifically, deals within an aircraft identified as
20 N500LA?

21 A. N500LA is identified on this document; yes.

22 Q. And this aircraft has a registration -- excuse me,
23 has a serial number; correct, sir?

24 A. There is a serial number on this document.

25 Q. And the type of registration reflected in the FAA

1 registry is a corporation; correct, sir? 11:02AM

2 A. Corporation is reflected on this document. 11:02AM

3 Q. And, again, according to the FAA registry, the 11:02AM
4 registered owner of the aircraft listed above is Chance Air, 11:02AM
5 Inc.; correct, sir? 11:02AM

6 A. Chance Air, Inc. is reflected on this document; yes. 11:02AM

7 Q. And the country for Chance Air, Inc. is reflected as 11:03AM
8 Vanuatu; correct, sir? 11:03AM

9 A. Vanuatu is reflected on this document; yes. 11:03AM

10 Q. All right. And I have Government's Exhibit 829. Is 11:03AM
11 Chance Air, Inc. on this, or I do need to bring it up there 11:03AM
12 for you to verify? 11:03AM

13 A. I recall Chance Air being on that; yes. 11:03AM

14 Q. Okay. Would you agree with me, sir, that the 11:03AM
15 helicopter that has been identified as N500LA on this 11:03AM
16 document, is an asset? 11:03AM

17 A. N500LA is an asset. 11:03AM

18 Q. Okay. We could go to the next one. Again, sir, do 11:03AM
19 you see this is the second half of Government's Exhibit 11:03AM
20 366-16, do you see a record reflected that is a business 11:03AM
21 record kept in the normal course of business of the Federal 11:03AM
22 Aviation Administration? 11:03AM

23 A. Yes. 11:03AM

24 Q. And, specifically, this document, would you agree, 11:03AM
25 sir, relates to an aircraft identified as N500PA? 11:04AM

1 A. U.S. registration number N500PA; yes. 11:04AM

2 Q. And this aircraft has a serial number; correct, sir? 11:04AM

3 A. There is a serial number reflected there; yes. 11:04AM

4 Q. And the type of registration for this aircraft, would 11:04AM

5 you agree, sir, is a corporation? 11:04AM

6 A. Corporation is identified on this; yes. 11:04AM

7 Q. All right. And the -- according to the FAA registry, 11:04AM

8 the registered owner is Alpha Air, Inc.; correct, sir? 11:04AM

9 A. Alpha Air, Inc. is identified on this document; yes. 11:04AM

10 Q. According to the FAA registry is the registered 11:04AM

11 owner; correct, sir? 11:04AM

12 A. It's identified underneath "registered owner," yes. 11:04AM

13 Q. Okay. And the country for Alpha Air, Inc. is 11:04AM

14 Vanuatu; correct, sir? 11:04AM

15 A. Vanuatu is identified on this document; yes. 11:04AM

16 Q. Okay. And, again, I have Government's Exhibit 829, I 11:05AM

17 can bring it up there. Is Alpha Air, Inc. on here? 11:05AM

18 A. There is a discrepancy in the name between the two. 11:05AM

19 Q. The spelling? 11:05AM

20 A. The spelling. 11:05AM

21 Q. Yeah. Is the -- and we talked about that earlier, 11:05AM

22 right? 11:05AM

23 A. We just identified that the PH, there is A-L-P-H-A 11:05AM

24 spelled here on the registry, and it's A-L-F-A identified 11:05AM

25 there. 11:05AM

1 Q. Right here on this very first listing, right, sir? 11:05AM

2 A. Correct. 11:05AM

3 Q. Okay. And you agree with me, sir, that the aircraft
4 identified in the FAA registry is N500PA, is an asset;
5 correct, sir? 11:05AM

6 A. The U.S.-registered number N500PA is an asset. 11:05AM

7 Q. If we can go to the next one. I believe this is
8 Government's Exhibit No. G-366-17. Do you recognize this
9 document reflected on the monitor, sir, as a record kept in
10 the normal course of business of the Federal Aviation
11 Administration? 11:06AM

12 A. Yes. 11:06AM

13 Q. And do you specifically see, sir, that this document
14 reflect -- relates to an aircraft with a registration number
15 of N501FC? 11:06AM

16 A. U.S. registration number N501FC is on here; yes. 11:06AM

17 Q. Okay. You'll agree that this aircraft has a serial
18 number; correct, sir? 11:06AM

19 A. Yes. 11:06AM

20 Q. And the type of registration is corporation; correct,
21 sir? 11:06AM

22 A. Corporation is identified; yes. 11:06AM

23 Q. And the registered owner is Eddie Air, Inc. Would
24 you agree with that, sir? 11:06AM

25 A. Eddie Air, Inc. is identified on this document; yes. 11:06AM

1 Q. And the location identified on the FAA registry for
2 Eddie Air, Inc. is the country of Vanuatu; correct, sir?

3 A. Vanuatu is identified here; yes.

4 Q. And let me ask you, sir, Government's Exhibit 829,
5 which I have in my hand, is Eddie Air, Inc. on that? And I'm
6 happy to bring it over there if you need to see it?

7 A. Yes, Eddie Air, Inc. is on there.

8 Q. Okay. And would you agree with me, sir, that the
9 aircraft identified on this document as N501FC is an asset?

10 A. N501FC is an asset.

11 Q. All right, sir. We can go to the next one. This is
12 the second half of Government's Exhibit 366-17. Again, a
13 record of the Federal Aviation Administration kept in the
14 normal course of business; correct, sir?

15 A. Yes.

16 Q. And specifically this document deals with an aircraft
17 listed in the registry as November 501SU; correct, sir?

18 A. U.S. registration number N501SU is identified here;
19 yes.

20 Q. And it has a serial number, you agree with that, sir?

21 A. Serial number is reflected on here; yes.

22 Q. And the type of registration is a corporation?

23 A. Type of registration identified here is a
24 corporation; yes.

25 Q. And would you agree with me, sir, that the federal

1 aviation registry reflects the registered owner as Dave's
2 Helicopter Service, Inc.?

3 A. Dave's Helicopter Service, Inc. is identified here;
4 yes.

5 Q. And the country reflected in the FAA registry for
6 Dave's Helicopter Service, Inc. is Vanuatu, you agree with
7 that, sir?

8 A. Vanuatu is identified here; yes.

9 Q. And I have in my hand Government's Exhibit G-829, is
10 Dave's Helicopter Services, Inc. on this chart? And I'm happy
11 to bring it up there.

12 A. Yes. I mean the corporation is identified on that
13 chart; yes, sir.

14 Q. Okay. And is that aircraft N501SU, identified on the
15 screen in the FAA registry, an asset?

16 A. U.S.-registered number N501SU is an asset.

17 Q. All right, sir. We can go to the next one. Before
18 you on the screen is G-366-18. Would you agree with me, sir,
19 that that is a record kept in the normal course of business at
20 the Federal Aviation Administration?

21 A. Yes.

22 Q. Would you agree with me, sir, that this document on
23 the screen specifically relates to an aircraft identified by
24 number N504WW?

25 A. U.S. registration number N504WW is reflected on this

1 document; yes.

11:10AM

2 Q. Do you agree, sir, that it has a serial number?

11:10AM

3 A. There is a serial number; yes.

11:10AM

4 Q. And the registration reflected is a corporation;
5 correct, sir?

11:10AM

11:10AM

6 A. Corporation is identified on this document; yes.

11:10AM

7 Q. And the corporation -- or excuse me, and the
8 registered owner, according to the FAA registry reflects the
9 name of H-H Helicopters Inc.; correct sir?

11:10AM

11:10AM

11:10AM

10 A. HH Helicopters, Inc. is identified on this document.

11:10AM

11 Q. And HH Helicopters, Inc. is recognized from the
12 country of Vanuatu; correct, sir?

11:10AM

11:10AM

13 A. Vanuatu is identified on this document.

11:10AM

14 Q. And do you know, sir, if HH Helicopter, Inc. is on
15 Government's Exhibit 829? And I'm happy to bring it over
16 there.

11:10AM

11:11AM

11:11AM

17 A. Yes, please.

11:11AM

18 Q. Okay.

11:11AM

19 A. It's right where your finger is located.

11:11AM

20 Q. Okay, sir. Thank you. Would you agree with me, sir,
21 that the aircraft identified as N504WW is an asset?

11:11AM

11:11AM

22 A. U.S. registration number N504WW is an asset.

11:11AM

23 Q. If we could go to the next one. Again, from the
24 registry, business record FAA registry; correct, sir?

11:11AM

11:11AM

25 A. Yes.

11:11AM

1 Q. And this particular document G-366-18, second part of 11:11AM
2 it, deals specifically with an aircraft identified by N539; 11:11AM
3 correct, sir? 11:12AM

4 A. U.S. registration number N539 is identified on this 11:12AM
5 document. 11:12AM

6 Q. You'll agree it has a serial number; correct, sir? 11:12AM

7 A. There is a serial number. 11:12AM

8 Q. Would you agree with me, sir, that the FAA registry 11:12AM
9 reflects the type of registration is a corporation? 11:12AM

10 A. Corporation is identified; yes. 11:12AM

11 Q. Would you agree with me, sir, that according to the 11:12AM
12 FAA registry, the registered owner is a company called Heli 11:12AM
13 Fish, Inc.? 11:12AM

14 A. Heli Fish, Inc. is identified on this document. 11:12AM

15 Q. And the location of Heli Fish, Inc. is identified in 11:12AM
16 the country of Vanuatu; correct, sir? 11:12AM

17 A. Vanuatu is identified on this document. 11:12AM

18 Q. All right. And is Heli Fish, Inc. on Government's 11:12AM
19 Exhibit 829? 11:12AM

20 A. Yes, it is. 11:12AM

21 Q. Okay. And let me ask you, sir, would you agree with 11:12AM
22 me that the aircraft that's identified as N539 on the FAA 11:12AM
23 registry is an asset? 11:12AM

24 A. U.S. registration number N539 is an asset. 11:13AM

25 Q. We could go to the next one. Again, sir, we're at 11:13AM

1 Government's Exhibit 366-19. This is a business record kept
2 in the normal course of business by the Federal Aviation
3 Administration; correct?

4 A. Yes.

5 Q. And this document specifically deals with an aircraft
6 identified as N577DW; correct, sir?

7 A. U.S. registration N577DW is reflected here; yes.

8 Q. And the FAA registry reflects that the serial number
9 for this aircraft is on there; correct?

10 A. A serial number is reflected; yes.

11 Q. And the FAA registry reflects that the type of
12 registration is corporation; correct, sir?

13 A. Corporation is identified; yes.

14 Q. And the FAA registry reflects that the registered
15 owner of the aircraft identified above as N577DW, is Whirlwide
16 Helicopters, Inc.; correct, sir?

17 A. Whirlwide Helicopters, Inc. is identified here; yes.

18 Q. And the location for Whirlwide Helicopter, Inc. is
19 identified as Vanuatu?

20 A. Vanuatu is identified here; yes.

21 Q. And I have in my hand, sir, Government's Exhibit 829,
22 do I need to bring it over there to see if Whirlwide
23 Helicopter, Inc. is on here?

24 A. Sure.

25 Q. Okay.

1 A. Yes. Whirlwide is reflected by your finger. 11:14AM

2 Q. You'll agree with me, sir, that N577DW reflected in 11:14AM
3 the FAA registry is an asset; correct, sir? 11:14AM

4 A. N577DW is an asset. 11:15AM

5 Q. All right, sir. Thank you. If we could go to the 11:15AM
6 next one. Again, Government's Exhibit 366-19 is from the FAA 11:15AM
7 registry records kept in the normal course of business; 11:15AM
8 correct, sir? 11:15AM

9 A. Yes. Yes, sir. 11:15AM

10 Q. And specifically this document that we're looking at 11:15AM
11 on the screen relates an aircraft identified by the listing 11:15AM
12 N584SD; correct, sir? 11:15AM

13 A. U.S. registration number N584SD, is identified. 11:15AM

14 Q. And the FAA registry reflects that it has a serial 11:15AM
15 number; correct, sir? 11:15AM

16 A. A serial number is reflected; yes. 11:15AM

17 Q. And the FAA registry reflects that the type of 11:15AM
18 registration for this aircraft is a corporation; correct, sir? 11:15AM

19 A. Corporation is identified; yes. 11:15AM

20 Q. And according to the FAA registry the registered 11:15AM
21 owner for that aircraft is a company called Walk-Air, Inc.; 11:16AM
22 correct? 11:16AM

23 A. Walk-Air, Inc. is identified here; yes. 11:16AM

24 Q. And the country for Walk-Air, Inc. is identified as 11:16AM
25 Vanuatu; correct, sir? 11:16AM

1 A. Vanuatu is identified on this document; yes. 11:16AM

2 Q. And is Walk-Air, Inc. on this Government's 11:16AM

3 Exhibit 829? I'm happy to bring it up there. 11:16AM

4 A. Yes, please. 11:16AM

5 Q. Sure. 11:16AM

6 A. Walk-Air, Inc. is identified right by your finger. 11:16AM

7 Q. Okay. And is the aircraft identified in the FAA 11:16AM

8 registry as N584SD an asset? 11:16AM

9 A. N584SD is an asset. 11:16AM

10 Q. Thank you, sir. If we could go to the next one. I 11:17AM

11 believe we're now at Government's Exhibit 366-20. Do you see 11:17AM

12 that, sir? 11:17AM

13 A. Yes, sir. 11:17AM

14 Q. Would you agree with me, sir, that this document is a 11:17AM

15 record kept in the normal course of business by the Federal 11:17AM

16 Aviation Administration? 11:17AM

17 A. Yes, sir. 11:17AM

18 Q. Would you agree with me, sir, that this document 11:17AM

19 specifically relates to an aircraft that's identified as 11:17AM

20 N58478? I put a yellow mark there by it. 11:17AM

21 A. U.S. registration number N58478 is identified; yes, 11:17AM

22 sir. 11:17AM

23 Q. Okay. And would you agree, sir, that the FAA 11:17AM

24 registry reflects that this aircraft has a serial number? 11:17AM

25 A. A serial number is reflected there; yes. 11:17AM

Cross - Khamvongsa

1 Q. Okay. And the FAA registry further reflects that the
2 type of registration is corporation; correct, sir?

3 A. Corporation is reflected on this document; yes.

4 Q. And just like the document before, the FAA registry
5 reflects that the registered owner of this aircraft is a
6 company called Walk-Air, Inc.; correct, sir?

7 A. Walk-Air, Inc. is reflected on this document; yes.

8 Q. And the location for Walk-Air, Inc. is identified in
9 the country of Vanuatu; correct, sir?

10 A. The country reflected on here is Vanuatu.

11 Q. And if I need to, I can bring it back up, but I think
12 we just did it, Walk-Air, Inc. is on this Government's
13 Exhibit 829; correct, sir?

14 A. Yes, sir.

15 Q. Okay. And you'll agree with me will you not, sir,
16 that according -- that the aircraft identified as N58478, is
17 an asset?

18 A. U.S. registration number N58478 is an asset.

19 Q. Thank you, sir. If we can go to the next one. I
20 believe we're at the second portion of Government's
21 Exhibit 366-20. On the monitor, will you agree with me, sir,
22 that the document reflected is a record kept in the normal
23 course of business of the Federal Aviation Administration?

24 A. Yes.

25 Q. Would you agree with me, sir, that it deals

1 specifically with an aircraft that's identified as N6188C? 11:19AM

2 A. U.S. registration number N6188C is reflected. 11:19AM

3 Q. And the federal aviation registry reflects that there 11:19AM

4 is a serial number for this aircraft; correct, sir? 11:19AM

5 A. A serial number is identified. 11:19AM

6 Q. And the federal aviation registry, will you agree, 11:19AM

7 sir, reflects that this registration is a corporation; 11:19AM

8 correct? 11:19AM

9 A. Corporation is identified on this document. 11:19AM

10 Q. And according to the FAA registry, the registered 11:19AM

11 owner of aircraft N6188C, is a corporation called Bravo Air, 11:19AM

12 Inc.; correct, sir? 11:20AM

13 A. Bravo Air, Inc. is identified here; yes. 11:20AM

14 Q. And the location for Bravo Air, Inc. is Vanuatu; 11:20AM

15 correct, sir? 11:20AM

16 A. Vanuatu is identified. 11:20AM

17 Q. And Government's Exhibit 829, is Bravo Air, Inc. on 11:20AM

18 that? Do I need to bring it up there? I'm happy to. 11:20AM

19 A. No. Bravo Air is on there. Yes, sir. 11:20AM

20 Q. Right there? 11:20AM

21 A. Yes, sir. 11:20AM

22 Q. Where my finger was? 11:20AM

23 A. Yes. 11:20AM

24 Q. Okay. And would you agree with me, sir, that the 11:20AM

25 aircraft identified as N6188C is an asset? 11:20AM

Cross - Khamvongsa

1 A. U.S. registration number N6188C is an asset. 11:20AM

2 Q. Thank you, sir, we can go to the next one. I believe 11:20AM

3 we're at Government's Exhibit 366-21, and that is a record 11:20AM

4 kept in the normal course of business by the Federal Aviation 11:21AM

5 Administration, isn't it, sir? 11:21AM

6 A. Yes. 11:21AM

7 Q. Known as the FAA registry; correct? 11:21AM

8 A. Yes. 11:21AM

9 Q. And this document specifically relates to an aircraft 11:21AM

10 identified as N6188D; correct, sir? 11:21AM

11 A. U.S. registration number N6188D, is identified. 11:21AM

12 Q. And according to the FAA registry, this aircraft has 11:21AM

13 a serial number; correct, sir? 11:21AM

14 A. Yes. 11:21AM

15 Q. And according to the FAA registry, the type of 11:21AM

16 registration is a corporation; correct, sir? 11:21AM

17 A. Type of registry is a corporation; yes. 11:21AM

18 Q. And the FAA registry reflects that the registered 11:21AM

19 owner is a company called Bravo Air, Inc.; correct, sir? 11:21AM

20 A. Bravo Air, Inc. is identified. 11:21AM

21 Q. All right. And the location for the corporation 11:21AM

22 Bravo Air, Inc. is in the country of Vanuatu; correct, sir? 11:21AM

23 A. Vanuatu is identified. 11:21AM

24 Q. And, sir, this is Government's Exhibit 829. I'm 11:21AM

25 happy to bring it up there. Is Bravo Air, Inc. on 11:22AM

1 Government's Exhibit 829?

11:22AM

2 A. Yes.

11:22AM

3 Q. Okay. Would you agree with me, sir, that the
4 aircraft identified as N6188D is an asset?

11:22AM

11:22AM

5 A. U.S. registration number N6188D is an asset.

11:22AM

6 Q. Thank you, sir. We are now at Government's
7 Exhibit 366-21. Would you agree with me, sir, that this is a
8 record kept in the normal course of business by the Federal
9 Aviation Administration?

11:22AM

11:22AM

10 A. Yes.

11:22AM

11 Q. And that this document reflected on the screen
12 specifically relates to an aircraft identified as N6360S?

11:22AM

11:22AM

13 A. U.S. registration number N6360S is identified; yes.

11:22AM

14 Q. Okay. And does the registry reflect that there is a
15 serial number for this aircraft.

11:22AM

11:22AM

16 A. There is a serial number; yes.

11:23AM

17 Q. Would you agree with me, sir, that the FAA registry
18 reflects that the type of registration is a corporation, sir?

11:23AM

11:23AM

19 A. A corporation is identified; yes.

11:23AM

20 Q. All right. And according to the FFA registry, the
21 registered owner is a company named Oceanside Helicopters,
22 Inc.; correct, sir?

11:23AM

11:23AM

23 A. Oceanside Helicopters, Inc. is identified here; yes.

11:23AM

24 Q. Okay. And the location for the corporation
25 Oceanside, Helicopter Inc. is the country of Vanuatu; correct,

11:23AM

11:23AM

1 sir?

11:23AM

2 A. Vanuatu is identified; yes.

11:23AM

3 Q. I'm going to take Government's Exhibit 829 again,
4 sir. And I can bring it over there and have you look at it to
5 look for Oceanside Helicopters, Inc.?

11:23AM

11:23AM

11:23AM

6 A. Yes, please.

11:23AM

7 Q. Okay. Is Oceanside Helicopters, Inc. identified on
8 Government's Exhibit 829?

11:23AM

11:23AM

9 A. Yes, it's identified -- excuse me, it's identified by
10 your finger.

11:23AM

11:23AM

11 Q. Okay. And would you agree with me, sir, that the
12 aircraft identified as N6360S is an asset?

11:24AM

11:24AM

13 A. U.S. registration number N6360S is an asset.

11:24AM

14 Q. Thank you, sir. If we can go to the next one. I
15 believe we are at Government's Exhibit 366-22. Do you see
16 that document, sir?

11:24AM

11:24AM

11:24AM

17 A. Yes.

11:24AM

18 Q. And would you agree with me, sir, that this is a
19 document kept in the normal course of business by the Federal
20 Aviation Administration?

11:24AM

11:24AM

11:24AM

21 A. Yes.

11:24AM

22 Q. Would you agree with me, sir, that this document
23 deals specifically with an aircraft identified as N66HH?

11:24AM

11:24AM

24 A. U.S. registration number N66HH is identified.

11:24AM

25 Q. And would you agree with me, sir, that the registry

11:24AM

1 reflects that there is a serial number for this particular
2 aircraft?

3 A. A serial number is identified.

4 Q. And the FAA registry reflects that the type of
5 registration is a corporation, isn't that true, sir?

6 A. Corporation is identified; yes.

7 Q. And the FAA registry reflects that the registered
8 owner for this aircraft identified as N66HH, is a company
9 called Jim's Air Repair, Inc. Would you agree, sir?

10 A. Jim's Air Repair, Inc. is identified; yes.

11 Q. Okay. And the location for Jim's Air Repair, Inc.,
12 according to the FAA registry, is a country called Vanuatu;
13 correct, sir?

14 A. Vanuatu is identified.

15 Q. And I have in my hand or I'm picking it up right now,
16 Government's Exhibit G-829. Is Jim's Air Repair on this
17 document?

18 A. Could you bring it over here, please?

19 Q. Absolutely.

20 A. Thank you, sir. Jim's Air Repair, Inc. is identified
21 by your finger; yes.

22 Q. Thank you, sir. And would you agree with me, sir,
23 that the aircraft identified in the FAA registry as N66HH is
24 an asset?

25 A. N66HH is an asset.

1 Q. Thank you, sir. If we can go to the next one. In
2 front of you is the second half of Government's Exhibit
3 G-366-22. Would you agree with me, sir, that this is a
4 document kept in the normal course of business by the Federal
5 Aviation Administration?

6 A. Yes.

7 Q. Would you agree with me, sir, that this document
8 deals specifically with an aircraft identified as N660SL?

9 A. U.S. registration number N660SL is identified on this
10 document.

11 Q. And the FAA registry further reflects that this
12 aircraft has a serial number; correct, sir?

13 A. A serial number is reflected.

14 Q. And would you agree with me, sir, that the to FAA
15 registry reflects that the type of registration is a
16 corporation?

17 A. Corporation is identified.

18 Q. Okay. And the FAA registry, would you agree, sir,
19 identifies the registered owner as a company called Tuna
20 Copter, Inc.?

21 A. Tuna Copter, Inc. is identified.

22 Q. And the location identified in the registry for Tuna
23 Copter, Inc. is a country of Vanuatu; correct, sir?

24 A. Vanuatu is identified.

25 Q. And I have in my hand Government's Exhibit 829, is

1 Tuna Copter, Inc. on this chart? I'll bring it over here. 11:27AM

2 A. Thank you, sir. Yes, it's right by your finger, Tuna 11:27AM

3 Copter, Inc. 11:27AM

4 Q. Okay. And would you agree with me, sir, that the 11:27AM

5 aircraft identified in the FAA registry as N660SL is an asset? 11:28AM

6 A. U.S. registration number N660SL is an asset. 11:28AM

7 Q. Thank you, sir. We're now looking at Government's 11:28AM

8 Exhibit 366-23. Would you agree with me, sir, that this is a 11:28AM

9 record kept in the normal course of business of the Federal 11:28AM

10 Aviation Administration? 11:28AM

11 A. Yes. 11:28AM

12 Q. Further, that this record that we're looking at 11:28AM

13 specifically deals with an aircraft identified as N74AM? 11:28AM

14 A. U.S. registration number N74AM is identified on this 11:28AM

15 document. 11:28AM

16 Q. And the FAA registry further reflects that this 11:28AM

17 aircraft has a specific unique serial number; correct, sir? 11:28AM

18 A. A serial number is reflected on this document; yes. 11:28AM

19 Q. Okay. And according to the registry, the type of 11:28AM

20 registration is a corporation, right, sir? 11:29AM

21 A. Yes, corporation is identified. 11:29AM

22 Q. And the FAA registry reflects that the registered 11:29AM

23 owner of this aircraft is a corporation called Fling Air, 11:29AM

24 Inc.; correct, sir? 11:29AM

25 A. Fling Air, Inc. is identified on this document. 11:29AM

Cross - Khamvongsa

1 Q. And the location for Fling Air, Inc. is actually 11:29AM
2 identified as Guam; correct, sir? 11:29AM
3 A. Yes, Guam is identified on this document. 11:29AM
4 Q. All right, sir. And is Fling Air, Inc., if you know, 11:29AM
5 on this -- on Government's Exhibit 829, or do I need to bring 11:29AM
6 it over there? 11:29AM
7 A. Could you bring it over, please? 11:29AM
8 Q. Sure, sure. Absolutely. 11:29AM
9 A. Fling Air, Inc. doesn't appear to match up with 11:29AM
10 what's purported on this document because it's showing that 11:29AM
11 it's reflected as a Vanuatu international company -- 11:29AM
12 Q. I'm asking you, is that name on there, though? 11:30AM
13 A. The name is on this document; yes. 11:30AM
14 Q. Okay. And you'll agree with me, sir, that foreign 11:30AM
15 corporations can have businesses in the United States; 11:30AM
16 correct? 11:30AM
17 A. Are we talking about generally? 11:30AM
18 Q. Yes. 11:30AM
19 A. Generally, foreign corporations can have businesses 11:30AM
20 in the U.S. 11:30AM
21 Q. You ever heard of Toyota? 11:30AM
22 A. Yes. 11:30AM
23 Q. Can you buy a Toyota in the United States? 11:30AM
24 A. Yes. 11:30AM
25 Q. Mitsubishi? 11:30AM

Cross - Khamvongsa

1 A. Yes. 11:30AM

2 Q. Is that a foreign corporation? 11:30AM

3 A. Yes. 11:30AM

4 Q. Can you buy a Mitsubishi in the United States? 11:30AM

5 A. Yes. 11:30AM

6 Q. Okay. So Fling Air, you'll agree with me, is 11:30AM

7 identified on Government's Exhibit 829, right here where my 11:30AM

8 finger is, right? You may not see it, but if you don't trust 11:30AM

9 me, I'll bring it back over there? 11:30AM

10 A. No, Fling Air is on that document, but it doesn't 11:30AM

11 necessarily match up with what's on here. 11:31AM

12 Q. Fling Air is on the document was my question, okay? 11:31AM

13 Is Fling Air on the document? 11:31AM

14 A. Fling Air is on 829; yes. 11:31AM

15 Q. Okay. All right. And it's indicated to be the 11:31AM

16 registered owner; correct, sir? 11:31AM

17 A. It's identified here as -- underneath registered 11:31AM

18 owner. 11:31AM

19 Q. All right. And would you agree with me, sir, that 11:31AM

20 according to the FAA registry -- I need to rephrase that. 11:31AM

21 That the aircraft identified as N74AM, according to the FAA 11:31AM

22 registry, is an asset? 11:31AM

23 A. U.S. registration number N74AM is an asset. 11:31AM

24 MR. MARTIN: Your Honor, I don't know how long 11:31AM

25 you want me to go. 11:31AM

1 THE COURT: You still got -- 11:31AM

2 MR. MARTIN: I didn't know what time lunch was. 11:31AM

3 THE COURT: 11:45 is when we start lunch. 11:31AM

4 MR. MARTIN: Okay. I've got time to go then, I'm 11:31AM

5 sorry. 11:32AM

6 THE COURT: We have 13 minutes, now 12. 11:32AM

7 MR. MARTIN: Sorry, Your Honor. 11:32AM

8 THE COURT: Go ahead. 11:32AM

9 BY MR. MARTIN: (CONTINUING) 11:32AM

10 Q. If we could go to the next one. Before you, sir, is 11:32AM

11 Government's Exhibit 366-23. Would you agree with me, sir, 11:32AM

12 that that is a record from the FAA registry kept in the normal 11:32AM

13 course of business? 11:32AM

14 A. Yes. 11:32AM

15 Q. Would you agree with me, sir, that document that 11:32AM

16 we're looking at on the screen specifically relates to an 11:32AM

17 aircraft identified as N755PC? 11:32AM

18 A. U.S. registration number N755PC is identified here. 11:32AM

19 Q. Very good. And would you agree, sir, that the FAA 11:32AM

20 registry reflects a serial number? 11:32AM

21 A. A serial number is reflected; yes. 11:32AM

22 Q. And according to the U.S.A. -- according to the FAA 11:32AM

23 registry, the type of registration is reflected as a 11:32AM

24 corporation; correct, sir? 11:32AM

25 A. Corporation is identified; yes. 11:32AM

Cross - Khamvongsa

1 Q. And according to the FAA registry, the registered
2 owner is a company called HH Helicopters; correct, sir?

3 A. HH Helicopters is identified; yes.

4 Q. And the country for HH helicopters is Vanuatu;
5 correct, sir?

6 A. Vanuatu is identified.

7 Q. And in my hand is Government's Exhibit 829. Do you
8 need to look at it to see whether or not HH Helicopters is on
9 this chart?

10 A. HH Helicopters is on the chart that you're holding.

11 Q. Okay. And would you agree with me, sir, that the
12 aircraft identified as N755PC is an asset?

13 A. U.S. registration number N755PC is an asset.

14 Q. If we could go to the next one.

15 THE COURT: Well, you're keeping us, you know,
16 alert. The way you...

17 BY MR. MARTIN: (CONTINUING)

18 Q. Agent Khamvongsa, before you is Government's
19 Exhibit 366-24, would you agree with me, sir, that this a
20 record kept in the normal course of business by the Federal
21 Aviation Administration?

22 A. Yes.

23 Q. Would you agree with me, sir, that this particular
24 document on the screen relates to an aircraft identified as
25 N805LA?

1 A. U.S. registration number N805LA is identified. 11:34AM

2 Q. And the FAA registry reflects that this aircraft has 11:34AM
3 a serial number; correct, sir? 11:34AM

4 A. A serial number is reflected. 11:34AM

5 Q. And the FAA registry reflects that the registered 11:34AM
6 owner of this aircraft is Jim's Air Repair; correct, sir? 11:34AM

7 A. Jim's Air Repair is identified here; yes. 11:34AM

8 Q. And the location for Jim's Air Repair is reflected as 11:34AM
9 Vanuatu; correct, sir? 11:35AM

10 A. Vanuatu is identified. 11:35AM

11 Q. An according to the FAA registry, the type of 11:35AM
12 registration is a corporation, right, sir? 11:35AM

13 A. Corporation is identified. 11:35AM

14 Q. And I have Government's Exhibit 829. Do you know, 11:35AM
15 sir, whether or not Jim's Air Repair is on this document, and 11:35AM
16 I'm happy to bring it over there. 11:35AM

17 A. Yes, please. 11:35AM

18 Q. Okay. 11:35AM

19 A. Jim's Air Repair is identified right by your finger. 11:35AM

20 Q. Okay, sir. Thank you. 11:35AM

21 A. Thank you. 11:35AM

22 Q. And would you agree with me, sir, that the aircraft 11:35AM
23 identified in the FAA registry as N805LA is an asset? 11:35AM

24 A. N805LA is an asset. 11:35AM

25 Q. Thank you, sir. Go to the next one. Before you is 11:35AM

1 Government's Exhibit 366-24. Would you agree with me, sir,
2 that that is a record kept in the normal course of business by
3 the Federal Aviation Administration?

4 A. Yes.

5 Q. Would you agree with me, sir, that that particular
6 record from the FAA registry relates to the aircraft
7 identified as N810M?

8 A. U.S. registration number N810M is identified on this
9 document.

10 Q. All right, sir. Would you agree with me that the
11 registry reflects that this aircraft has a serial number?

12 A. Yes.

13 Q. Would you agree with me, sir, that the FAA registry
14 reflects that the type of registration for N810M is a
15 corporation?

16 A. Corporation is identified.

17 Q. All right, sir. And according to the FAA registry,
18 this official record, the registered owner is Bravo Air, Inc.
19 Would you agree with that, sir?

20 A. Bravo Air, Inc. is identified on this document.

21 Q. And the location for Bravo Air, Inc. is the country
22 of Vanuatu. Would you agree with that, sir?

23 A. Vanuatu is identified on this document.

24 Q. And on Government's Exhibit 829, do you know whether
25 or not Bravo Air, Inc. is on this document?

1 A. Bravo Air, Inc. is on that document. 11:37AM

2 Q. Okay. And would you agree with me, sir, that the 11:37AM
3 aircraft identified as N810M is an asset? 11:37AM

4 A. The U.S. registration number N810M is an asset. 11:37AM

5 Q. Thank you, sir. We're now looking at Government's 11:37AM
6 Exhibit 366-25. Would you agree with me, sir, that this a 11:37AM
7 record kept in the normal course of business by the Federal 11:37AM
8 Aviation Administration? 11:37AM

9 A. Yes. 11:37AM

10 Q. And that this particular document deals specifically 11:37AM
11 with an aircraft identified as N825LF? 11:37AM

12 A. U.S. registration N825LF is identified on this 11:38AM
13 document. 11:38AM

14 Q. And that the registry reflects that this aircraft 11:38AM
15 does have a serial number; correct, sir? 11:38AM

16 A. There is a serial number there; yes. 11:38AM

17 Q. And according to the FAA registry, the type of 11:38AM
18 registration is a corporation, right, sir? 11:38AM

19 A. Corporation is identified; yes. 11:38AM

20 Q. And would you agree that according to the registry, 11:38AM
21 the registered owner of N825LF is a company called Walk-Air, 11:38AM
22 Inc. 11:38AM

23 A. Walk-Air, Inc. is identified on this document. 11:38AM

24 Q. And the location for Walk-Air, Inc. is the country 11:38AM
25 Vanuatu? 11:38AM

1 A. Vanuatu is identified on this document. 11:38AM

2 Q. I have, sir, Government's Exhibit 829, happy to bring 11:38AM
3 it up there, is Walk-Air, Inc. on this document, if you know? 11:38AM

4 A. Sure. Could you bring it up, please? 11:38AM

5 Q. Absolutely. 11:38AM

6 A. Walk-Air, Inc. is identified by your thumb. 11:39AM

7 Q. All right, sir. My fingers and thumbs are getting 11:39AM
8 identified a lot. Would you agree with me, sir, that the 11:39AM
9 aircraft identified by N825LF, is an asset? 11:39AM

10 A. U.S. registration number N825LF is an asset. 11:39AM

11 Q. Thank you, sir. We could go to the next one? 11:39AM

12 THE COURT: You got five minutes. 11:39AM

13 MR. MARTIN: Thank you, Your Honor. 11:39AM

14 THE COURT: Okay. 11:39AM

15 BY MR. MARTIN: (CONTINUING) 11:39AM

16 Q. Before you is the second half of G-366-25. Again, a 11:39AM
17 document kept in the regular course of business by the Federal 11:39AM
18 Aviation Administration, sir? 11:39AM

19 A. Yes. 11:39AM

20 Q. And this particular document relates specifically to 11:39AM
21 an aircraft identified as N831FG; correct? 11:39AM

22 A. U.S. registration number N831FG is identified on this 11:40AM
23 document. 11:40AM

24 Q. And in particular, the registry reflects that it has 11:40AM
25 a serial number, sir; correct? 11:40AM

1 A. A serial number is identified here.

11:40AM

2 Q. And according to the registry, the type of
3 registration is a corporation; correct, sir?

11:40AM

11:40AM

4 A. A corporation is identified.

11:40AM

5 Q. All right. And the registry reflects that the
6 registered owner of N831FG, is a company called Marlin Bay
7 Helicopters, Inc.; correct, sir?

11:40AM

11:40AM

8 A. Marlin Bay Helicopters, Inc. is identified.

11:40AM

9 Q. And the country for Marlin Bay Helicopters, Inc. is
10 Vanuatu; correct, sir?

11:40AM

11:40AM

11 A. Vanuatu is identified.

11:40AM

12 Q. All right, sir. I have Government's Exhibit 829 in
13 my hand. Do you know, sir, whether or not Marlin Bay
14 Helicopters is on this document? I'm happy to bring it up.

11:40AM

11:40AM

15 A. Yes, please.

11:41AM

16 Q. Okay.

11:41AM

17 A. Marlin Bay Helicopters, Inc. is identified by your
18 finger.

11:41AM

11:41AM

19 Q. All right, sir. And would you agree with me, sir,
20 that the aircraft identified in the FAA registry as N831FG is
21 an asset?

11:41AM

11:41AM

11:41AM

22 A. U.S. registration number N831FG is an asset.

11:41AM

23 Q. Thank you, sir. We could go to the next one. We're
24 now looking at Government's Exhibit 366-26. Do you see that,
25 sir?

11:41AM

11:41AM

11:41AM

1 A. Yes, sir.

11:41AM

2 Q. And would you agree, sir, that this is a record kept
3 in the normal course of business by the Federal Aviation
4 Administration?

11:41AM

11:41AM

11:41AM

5 A. Yes, sir.

11:41AM

6 Q. And would you agree with me that that particular
7 record of the Federal Aviation Administration deals
8 specifically with an aircraft identified as N831F -- 8312F, I
9 stand corrected.

11:41AM

11:41AM

11:42AM

11:42AM

10 A. U.S. registration number N8312F is identified.

11:42AM

11 Q. All right, sir. And according to the registry, this
12 helicopter has a serial number; correct, sir?

11:42AM

11:42AM

13 A. A serial number is reflected.

11:42AM

14 Q. And the FAA registry, would you agree with me, sir,
15 reflects that the registered owner for this particular
16 aircraft, N8312F, is a company called Rosie Air Support, Inc.;
17 correct?

11:42AM

11:42AM

11:42AM

11:42AM

18 A. Rosie Air Support, Inc. is reflected on this
19 document; yes.

11:42AM

11:42AM

20 Q. All right. And the country for the location of Rosie
21 Air Support, Inc. is Vanuatu; correct, sir?

11:42AM

11:42AM

22 A. Vanuatu is identified here; yes.

11:42AM

23 Q. And the type of registration for Rosie Air Support,
24 Inc. is corporation; correct?

11:42AM

11:42AM

25 A. Corporation is identified on this document; yes.

11:43AM

1 Q. And if we go to Government's Exhibit 829, do you know 11:43AM
2 whether or not Rosie Air, Inc., if I'm saying that right? 11:43AM
3 Rosie Air Support, Inc. is on that document? I could bring it 11:43AM
4 up there? 11:43AM

5 A. Yes, please. Rosie Air Support, Inc. is right by 11:43AM
6 your finger. 11:43AM

7 Q. Thank you, sir. And would you agree with me, sir, 11:43AM
8 that the aircraft identified in the registry as N8312F is an 11:43AM
9 asset? 11:43AM

10 A. U.S. registration number N8312F is an asset. 11:43AM

11 Q. Thank you, sir. We're now looking at Government's 11:43AM
12 Exhibit 366-26, would you agree with me, sir, that this is a 11:43AM
13 document kept in the normal course of business by the Federal 11:44AM
14 Aviation Administration? 11:44AM

15 A. Yes. 11:44AM

16 Q. Would you agree with me, sir, that this particular 11:44AM
17 document deals with an aircraft identified as N8315F? 11:44AM

18 A. U.S. registration N8351 -- 15F is identified. 11:44AM

19 Q. And this aircraft, according to the registry, has a 11:44AM
20 serial number; correct, sir? 11:44AM

21 A. There is a serial number. 11:44AM

22 Q. And the type of registration according to the 11:44AM
23 registry is the corporation; correct, sir? 11:44AM

24 A. Corporation is identified. 11:44AM

25 Q. And according to the registry, the registered owner 11:44AM

1 is a company called Rosie Air Support, Inc.; correct, sir? 11:44AM

2 A. Rosie Air Support, Inc. is identified. 11:44AM

3 Q. And the location for Rosie Air Support, Inc. is 11:44AM
4 Vanuatu; correct, sir? 11:44AM

5 A. Vanuatu is identified. 11:44AM

6 Q. And I believe we just did it, but I'm happy to do it 11:44AM
7 again, Government's Exhibit 829, is Rosie Air Support, Inc. on 11:44AM
8 the document? 11:45AM

9 A. Rosie Air Support, Inc. is on that document. 11:45AM

10 Q. Okay. And you would agree with me, sir, that the 11:45AM
11 aircraft identified in the FAA registry is N8315F is an asset? 11:45AM

12 A. U.S. registration number N8315F is an asset. 11:45AM

13 Q. Thank you, sir. 11:45AM

14 THE COURT: Is this a good time to -- 11:45AM

15 MR. MARTIN: Sure, Your Honor. 11:45AM

16 THE COURT: Okay. Good for you, Mr. Martin? 11:45AM

17 MR. MARTIN: Yes, Your Honor. I'm sorry. Good 11:45AM
18 for me. 11:45AM

19 THE COURT: Okay. Ladies and gentlemen of the 11:45AM
20 jury, we'll go ahead and take our lunch recess. Keep an open 11:45AM
21 mind. Do not form or express any opinion on this case until 11:45AM
22 it's submitted to you, and I will see you guys in 45 minutes. 11:45AM
23 Have a nice lunch. 11:45AM

24 (Jury out at 11:45 a.m.) 11:45AM

25 THE COURT: How much longer, Mr. Martin, do you 11:46AM

1 think?

11:46AM

2 MR. MARTIN: 30, 40 minutes max, Judge.

11:46AM

3 THE COURT: Okay. Just checking.

11:46AM

4 MS. M. MILLER: (Laughing.) Sorry. Your Honor,

11:46AM

5 the government is willing to stipulate that the records that

11:46AM

6 Mr. Martin is painfully going through all say that the name of

11:46AM

7 the Vanuatu company is the registered owner of an aircraft.

11:46AM

8 THE COURT: Well, does he want you to stipulate?

11:46AM

9 MS. M. MILLER: I don't know, I think --

11:46AM

10 THE COURT: Probably not because if he did --

11:46AM

11 MS. M. MILLER: Kill time.

11:46AM

12 THE COURT: Well --

11:46AM

13 MR. MARTIN: I don't think trying to prove that

11:46AM

14 the government has failed to prove their case beyond a

11:46AM

15 reasonable doubt can be classified as killing time, Your

11:46AM

16 Honor. I respectfully decline their stipulation.

11:46AM

17 THE COURT: I figured that.

11:46AM

18 MS. M. MILLER: Okay. It was worth a try, Your

11:46AM

19 Honor.

11:46AM

20 THE COURT: Yeah, you should have asked him

11:46AM

21 before.

11:46AM

22 MS. M. MILLER: Yeah, well, I know.

11:46AM

23 MS. S. MILLER: We hadn't had a break yet.

11:46AM

24 MS. M. MILLER: Yeah, I didn't want to interrupt

11:46AM

25 him.

11:46AM

1 THE COURT: I know. But if you really wanted -- 11:46AM
2 he wasn't going to stipulate. 11:46AM

3 (Recess taken at 11:47 a.m.) 11:47AM

4 (Back on the record at 12:40 p.m.) 12:40PM

5 THE COURT: Shall we call in the jury? All 12:40PM
6 Counsel is present. We'll call in the jury. 12:41PM

7 Ms. Miller, how long do you think will be your 12:41PM
8 redirect? I'm just trying to figure out if we're going to be 12:41PM
9 able to have your next witness today. 12:41PM

10 MS. M. MILLER: Well, I'd love to get to him, but 12:41PM
11 I have a feeling that we are not going to. 12:41PM

12 THE COURT: Oh, why? 12:41PM

13 MS. M. MILLER: I think just the way this is 12:41PM
14 going, Your Honor. We still have a bunch of pages. If 12:41PM
15 Mr. Martin continues down this path, it's going to take quite 12:41PM
16 a long time, which will require, unfortunately, me to cover 12:41PM
17 more area. 12:41PM

18 THE COURT: Well, he might stipulate to it. 12:41PM

19 MR. MARTIN: I'll stipulate to her cross, Your 12:41PM
20 Honor -- her redirect. 12:41PM

21 THE COURT: Okay. I don't know what that means. 12:41PM
22 But how do you stipulate to cross? You mean, like, stipulate 12:41PM
23 that there be no cross? 12:41PM

24 MR. MARTIN: No redirect. 12:41PM

25 THE COURT: I mean -- oh, well, there'd be no 12:41PM

1 redirect if you guys didn't cross.

12:41PM

2 MS. M. MILLER: Of course not.

12:41PM

3 MR. MARTIN: And we wouldn't be in trial if they
4 didn't indict, Judge.

12:41PM

12:41PM

5 THE COURT: Well, okay. We don't want to go
6 there because I can hear the next rebuttal on that. So --

12:41PM

12:42PM

7 MS. M. MILLER: Probably know it by heart.

12:42PM

8 THE COURT: All right. We'll call in the jury.

12:42PM

9 So you don't -- okay. So you don't think you'll done with the
10 witness?

12:42PM

12:42PM

11 MS. M. MILLER: I would think if --

12:42PM

12 THE COURT: This afternoon.

12:42PM

13 MS. M. MILLER: If Mrs. Martin does in fact only
14 take an hour, which I doubt, then I will be done today with
15 this witness. If he goes longer than that, I cannot guarantee
16 that I will be.

12:42PM

12:42PM

12:42PM

12:42PM

17 THE COURT: I see. And then who is your next
18 witness?

12:42PM

12:42PM

19 MS. M. MILLER: Jeff Guzzetti.

12:42PM

20 THE COURT: And how long is Mr. Guzzetti, you
21 think, for you?

12:42PM

12:42PM

22 MS. M. MILLER: I will be done with him in half a
23 day, Your Honor.

12:42PM

12:42PM

24 THE COURT: Okay. All right. So I'm looking at
25 my schedule for tomorrow. We thought we -- go ahead. You can

12:42PM

12:42PM

1 call in the jury. We'll talk about this -- so we thought we'd
2 be done by, you know.

3 MS. M. MILLER: Yes, that's what I was hoping
4 too.

5 THE COURT: It's now Thursday. And so... yeah,
6 let me look at my schedule because we have -- I have
7 off-island trainers here for our Court. So I need -- I'll
8 talk with you guys afterwards on just the timing might be
9 changed -- it will probably change tomorrow a little bit.

10 MS. M. MILLER: Thank you, Your Honor.

11 THE COURT: I want to get your -- the feeling of
12 how we're going to go, you only have two more witnesses after
13 this agent.

14 MS. M. MILLER: Yes, Your Honor.

15 THE COURT: Okay. Please be seated. Ladies and
16 gentlemen, thank you. And you may continue to proceed,
17 Mr. Martin.

18 MR. MARTIN: Thank you, Your Honor. I believe we
19 left off, if we could put back up on the monitor, Government's
20 Exhibit 366-26.

21 BY MR. MARTIN: (CONTINUING)

22 Q. Sir, I believe this was the one we just finished, the
23 one with Rosie Air Support. Do you recall that, sir?

24 A. This is U.S. registration N8315F. I'm not sure if we
25 just did this last, sorry.

1 Q. Well, let me just -- this is a record kept in the 12:43PM
2 regular course of business by the Federal Aviation 12:43PM
3 Administration; correct? 12:44PM

4 A. Yes. 12:44PM

5 Q. And this directly relates to an aircraft registration 12:44PM
6 number November 8315F; correct, sir? 12:44PM

7 A. U.S. registration number N8315F; yes. 12:44PM

8 Q. With a serial number; correct, sir? 12:44PM

9 A. Yes. 12:44PM

10 Q. And the FAA registry reflects that the type of 12:44PM
11 registration is a corporation; correct, sir? 12:44PM

12 A. Corporations identified; yes. 12:44PM

13 Q. And you'll agree with me, won't you, sir, that the 12:44PM
14 FAA registry reflects that the registered owner of this 12:44PM
15 aircraft is a company called Rosie Air Support, Inc., right, 12:44PM
16 sir? 12:44PM

17 A. Rosie Air Support, Inc. is identified; yes. 12:44PM

18 Q. And the location of Rosie Air Support, Inc., 12:44PM
19 according to the FAA registry, is the country of Vanuatu; 12:44PM
20 correct, sir? 12:44PM

21 A. Vanuatu is identified; yes. 12:44PM

22 Q. And is Rosie Air Support, Inc. identified in 12:44PM
23 Government's Exhibit G0829? 12:44PM

24 A. Yes. 12:44PM

25 Q. Okay. And you'll agree with me, will you not, sir, 12:44PM

1 that the aircraft identified in the FAA registry as N8315F is
2 an asset?

3 A. U.S. registration number N8315F is an asset.

4 Q. Thank you, sir. If we can go to the next one. This
5 is Government's Exhibit G-366-27. Will you agree with me,
6 sir, that that is a record from the Federal Aviation
7 Administration kept in the normal course of business?

8 A. Yes.

9 Q. Would you agree, sir, that this specific record
10 relates to the aircraft identified by the numbers N846D?

11 A. U.S. registration N846D is identified.

12 Q. And would you agree, sir, that this -- pardon me.
13 This aircraft, according to the registry, has a serial number?

14 A. Serial number is identified.

15 Q. All right, sir. And the FAA registry indicates that
16 the type of registration say corporation; correct, sir?

17 A. Corporation is identified.

18 Q. And according to the FAA registry, the registered
19 owner of N846D is a corporation called Echo Air, Inc.;
20 correct, sir?

21 A. Echo Air, Inc. is identified.

22 Q. And the location of Echo Air, Inc. is the country of
23 Vanuatu; correct, sir?

24 A. Vanuatu is identified.

25 Q. And, sir, if you know, is Echo Air, Inc. on

1 Government's Exhibit 829, and I'm happy to bring it up there 12:46PM
2 if you need to see it? 12:46PM

3 A. Yes, please. 12:46PM

4 Q. Okay. 12:46PM

5 A. Yes, Echo Air, Inc. is identified where you're 12:46PM
6 pointing. 12:46PM

7 Q. Thank you, sir. And would you agree with me, sir, 12:46PM
8 and I apologize, something in my throat, but would you agree 12:47PM
9 with me, sir, that the aircraft identified as N846D in the FAA 12:47PM
10 registry is an asset? 12:47PM

11 A. U.S. registration number N846D is an asset. 12:47PM

12 Q. Thank you, sir. If we could go to the next one. I 12:47PM
13 believe that's going to be Government's Exhibit 366-27. Is 12:47PM
14 that a record that is kept in the normal course of business by 12:47PM
15 the Federal Aviation Administration, sir? 12:47PM

16 A. Yes. 12:47PM

17 Q. And this particular document on the screen in front 12:47PM
18 of you, would you agree with me, sir, that it relates to the 12:47PM
19 aircraft identified as N901TM? 12:47PM

20 A. U.S. registration number N901TM is identified. 12:48PM

21 Q. All right, sir. And this aircraft has a serial 12:48PM
22 number; correct, sir? 12:48PM

23 A. Yes. 12:48PM

24 Q. And would you agree with me, sir, that the -- 12:48PM
25 according to the FAA registry, this registration is that for a 12:48PM

1 corporation?

12:48PM

2 A. It's a corporation.

12:48PM

3 Q. All right, sir. And according to the FAA, the
4 registered owner of N901TM is a company called South Pacific
5 Spotter[sic], Inc.; correct, sir?

12:48PM

12:48PM

6 A. Based on what was provided to the FAA registry, South
7 Pacific Spotters, Inc. is identified.

12:48PM

12:48PM

8 Q. Are you agreeing with me that's what the registry
9 shows, sir?

12:48PM

12:48PM

10 A. The registry reflects that.

12:48PM

11 Q. Okay. And the location of the company, South Pacific
12 Spotters, Inc. is Vanuatu; correct, sir?

12:48PM

12:48PM

13 A. Vanuatu is identified.

12:48PM

14 Q. All right, sir. And I have Government's Exhibit
15 G-0829. And would you agree with me, sir, that South Pacific
16 Spotters is on this document? I'm happy to bring it up there.

12:48PM

12:49PM

12:49PM

17 A. Sure, please. Yes, South Pacific Spotters is
18 identified where you're pointing.

12:49PM

12:49PM

19 Q. All right, sir. Thank you. And, sir, is the
20 aircraft that's identified in the FAA registry as N901TM an
21 asset?

12:49PM

12:49PM

12:49PM

22 A. U.S. registration number N901TM is identified as an
23 asset, or is an asset, excuse me.

12:49PM

12:49PM

24 Q. Is an asset?

12:49PM

25 A. Yes.

12:49PM

1 Q. Okay. Thank you, sir. We could go to the next one. 12:49PM
2 In front of you, sir, is Government's Exhibit 366-28. Do you 12:49PM
3 see that document? 12:50PM
4 A. Yes. 12:50PM
5 Q. Sir, is this a record that is kept in the normal 12:50PM
6 course of business by the Federal Aviation Administration? 12:50PM
7 A. Yes. 12:50PM
8 Q. And would you agree that the particular document that 12:50PM
9 we are looking at on the screen specifically relates to an 12:50PM
10 aircraft identified as N90176? 12:50PM
11 A. U.S. registration number N90176 is identified on this 12:50PM
12 document. 12:50PM
13 Q. All right, sir. And does this aircraft, the FAA 12:50PM
14 registry reflect that this aircraft has a serial number? 12:50PM
15 A. A serial number is reflected. 12:50PM
16 Q. All right, sir. And does the FAA registry reflect 12:50PM
17 the type of registration as that of a corporation? 12:50PM
18 A. Yes. 12:50PM
19 Q. And would you agree with me, sir, that according to 12:50PM
20 the FAA registry, the registered owner for aircraft number 12:50PM
21 N90176 is a company called Spotters, Inc.? 12:50PM
22 A. Spotters, Inc. is identified on this document. 12:51PM
23 Q. And the location for the registered owner Spotters, 12:51PM
24 Inc., would you agree, sir, is the country of Vanuatu? 12:51PM
25 A. Vanuatu is identified. 12:51PM

Cross - Khamvongsa

1 Q. And, sir, I have Government's Exhibit 829. If I need
2 to bring it up there for you, which it looks like I need to.
3 Would you agree with me, sir, that Spotters, Inc. is on
4 Government's Exhibit 829?

5 A. Spotters, Inc. is identified where you're pointing.

6 Q. Okay, sir. Thank you. Now, sir, would you agree
7 with me that the aircraft that is identified as N90176,
8 according to the FAA registry, is an asset?

9 A. U.S. registration N90176 is an asset.

10 Q. Thank you, sir. If we could go to the next. This is
11 the second half of Government's Exhibit 366-28. Would you
12 agree with me, sir, that this is a record kept in the normal
13 course of business by the Federal Aviation Administration?

14 A. Yes.

15 Q. Would you also agree with me, sir, that this document
16 we are looking at on the screen specifically refers to an
17 aircraft which has been identified by the FAA by the number
18 November 903F?

19 A. U.S. registration number N903F is identified.

20 Q. All right, sir. And the registry reflects this
21 particular aircraft has a serial number; correct, sir?

22 A. Serial number is identified.

23 Q. All right. The registry reflects that the aircraft
24 number 903 -- N903F is registered as a corporation, right,
25 sir?

1 A. Corporation is identified. 12:52PM

2 Q. And according to the registry, the registered owner 12:52PM
3 of N903F is a company called Marlin Bay Helicopters, Inc.; 12:53PM
4 correct, sir? 12:53PM

5 A. Marlin Bay Helicopters, Inc. is identified. 12:53PM

6 Q. And would you agree with me, sir, that according to 12:53PM
7 the registry, the location for Marlin Bay Helicopters, Inc. is 12:53PM
8 the country Vanuatu? 12:53PM

9 A. Vanuatu is identified. 12:53PM

10 Q. All right, sir. Now, I have Government's 12:53PM
11 Exhibit 829, do you know, sir, whether or not Marlin 12:53PM
12 Helicopters or -- not Marlin, but Marlin Bay Helicopters, Inc. 12:53PM
13 is on this? 12:53PM

14 A. Marlin Bay Inc. -- Marlin Bay Helicopters, Inc. is on 12:53PM
15 that document. 12:53PM

16 Q. On Government's Exhibit 0829? 12:53PM

17 A. Yes, on the corporate structure there. 12:53PM

18 Q. All right, sir. And would you agree with me, sir, 12:53PM
19 that the aircraft identified in the FAA registry as N903F is 12:53PM
20 an asset? 12:53PM

21 A. U.S. registration number N903F is an asset. 12:53PM

22 Q. All right, sir. If we could go to the next one. 12:54PM
23 Sir, we are looking at Government's Exhibit 366-29. Do you 12:54PM
24 see that, sir? 12:54PM

25 A. U.S. registration N9056F is identified on this 12:54PM

1 document.

2 Q. Okay. Thank you. And would you agree with me, sir,
3 that the document that we are looking at is a document that is
4 kept in the normal course of business by the Federal Aviation
5 Administration?

6 A. Yes.

7 Q. And would you agree with me, sir, that that document
8 reflects that the helicopter number N9056F has a serial
9 number?

10 A. Yes.

11 Q. And according to the FAA registry, 9056F is
12 registered as a corporation; correct, sir?

13 A. Corporation; yes.

14 Q. All right. And according to the registry, the
15 registered owner of 9056F is a company called Limey Air
16 Service, Inc. Would you agree with that, sir?

17 A. Limey Air Service, Inc. is identified on this
18 document; yes.

19 Q. All right. The location, according to the FAA
20 registry for Limey Air Service, Inc., is the country of
21 Vanuatu; correct, sir?

22 A. Identified is Vanuatu.

23 Q. All right. And, sir, pardon me, I have Government's
24 Exhibit 829, is Limey Air, Inc. on this document, or do you
25 need me to bring it up there for you to look at it?

1 A. Yes, please. Yes, it's identified by your -- where
2 you're pointing.

3 Q. All right, sir.

4 A. Thank you.

5 Q. Thank you, sir. And would you agree with me, sir,
6 the aircraft identified as N9056F according to the FAA
7 registry is an asset?

8 A. November -- U.S. registration N9056F is an asset.

9 Q. Thank you, sir. In front of you, sir, is
10 Government's Exhibit G-360-29. Do you see that document, sir?

11 A. Yes.

12 Q. Would you agree with me, sir, that that document is a
13 record that is kept in the regular course of business by the
14 Federal Aviation Administration?

15 A. Yes.

16 Q. And specifically, this document, sir, would you
17 agree, relates to an aircraft that has a registration number
18 of N9057F?

19 A. U.S. registration N90F -- 57F is identified here.

20 Q. All right, sir. And this aircraft, also according to
21 the FAA registry, has a serial number, right, sir?

22 A. Yes.

23 Q. And according to the FAA registry, sir, would you
24 agree with me that this registration indicates that 9057F is a
25 corporation?

1 A. Yes. 12:57PM

2 Q. And according to the FAA registry, sir, the 12:57PM
3 registered owner of 9057F is Wilma's Flight Services, Inc. 12:57PM
4 Would you agree with that, sir? 12:57PM

5 A. Yes. 12:57PM

6 Q. And the location of Wilma's Flight Services, Inc. is 12:57PM
7 the country of Vanuatu. Would you agree with that, sir? 12:57PM

8 A. Yes. 12:57PM

9 Q. And if we go to Government's Exhibit 829, I'm happy 12:57PM
10 to bring it up there, do you know whether or not Wilma's 12:57PM
11 Flight Services is on this chart? 12:57PM

12 A. Wilma's Flight Services, Inc. is on the chart. 12:57PM

13 Q. All right, sir. And would you agree with me, sir, 12:57PM
14 that the aircraft identified in the FAA registry is N5 -- 12:57PM
15 excuse me, N9057F is an asset? 12:57PM

16 A. U.S. registration N9057F is an asset. 12:57PM

17 Q. All right, sir. If we could go to the next one. 12:58PM
18 Sir, we're looking at Government's Exhibit 366-30; do you see 12:58PM
19 that document? 12:58PM

20 A. Yes. 12:58PM

21 Q. Would you agree with me, sir, that this is a document 12:58PM
22 that is kept in the normal course of business by the Federal 12:58PM
23 Aviation Administration? 12:58PM

24 A. Yes. 12:58PM

25 Q. Would you agree that this particular document deals 12:58PM

1 specifically with an aircraft that is identified in the FAA 12:58PM
2 registry as N907HH? 12:58PM
3 A. U.S. registration N907HH is identified. 12:58PM
4 Q. All right, sir. And would you agree with me, pardon 12:58PM
5 me, just a second. Would you agree with me, sir, that that 12:58PM
6 aircraft, according to the FAA registry, has a serial number? 12:59PM
7 A. Serial number is identified. 12:59PM
8 Q. All right, sir. And according to the FAA registry, 12:59PM
9 the type of registration is a corporation; correct, sir? 12:59PM
10 A. Corporation is identified. 12:59PM
11 Q. And according to the FAA registry, the registered 12:59PM
12 owner of aircraft number N907HH is a company called Limey Air 12:59PM
13 Services, Inc.; correct, sir? 12:59PM
14 A. Limey Air Services, Inc. is identified on this 12:59PM
15 document. 12:59PM
16 Q. And the location for Limey Air Services, Inc., 12:59PM
17 according to the FAA registry, is the country of Vanuatu; 12:59PM
18 correct, sir? 12:59PM
19 A. Vanuatu is identified. 12:59PM
20 Q. And is Limey Air Services, Inc., if you know, sir, on 12:59PM
21 Government's Exhibit G-0829? 12:59PM
22 A. Um -- 12:59PM
23 Q. I'm happy to bring it up there. 12:59PM
24 A. Yes. 12:59PM
25 Q. Right here where my finger is? 01:00PM

Cross - Khamvongsa

1 A. Yes; yes. 01:00PM

2 Q. All right. Would you agree with me, sir, that the 01:00PM

3 aircraft identified in the FAA registry as N907HH is an asset? 01:00PM

4 A. U.S. registration number N907HH is an asset. 01:00PM

5 Q. All right, sir. Thank you very much. We could go to 01:00PM

6 the next one. All right, sir. This is the second part of 01:00PM

7 Government's Exhibit 366-30. Will you agree, sir, that this 01:00PM

8 is a record that is kept in the normal course of business by 01:00PM

9 the Federal Aviation Administration? 01:00PM

10 A. Yes. 01:00PM

11 Q. Will you agree with me, sir, that this particular 01:00PM

12 exhibit that we're looking at on the screen deals specifically 01:00PM

13 with the aircraft that has been identified in the registry as 01:00PM

14 N910WC? 01:00PM

15 A. U.S. registration N910WC is identified. 01:00PM

16 Q. All right, sir. And the FAA registry reflects that 01:01PM

17 this aircraft has a serial number, right, sir? 01:01PM

18 A. A serial number is identified. 01:01PM

19 Q. And according to the FAA registry, would you agree, 01:01PM

20 sir, the type of registration for N910WC is a corporation? 01:01PM

21 A. Corporation is identified. 01:01PM

22 Q. All right, sir. Now, would you agree that according 01:01PM

23 to the FAA registry, the registered owner of N910WC is a 01:01PM

24 corporation called Bean Bag Helicopter Services, Inc.? 01:01PM

25 A. Beep Bag Helicopter Service, Inc. is identified. 01:01PM

Cross - Khamvongsa

1 Q. And the location, according to the registry, for the
2 company Bean Bag Helicopter Services, Inc. is the country of
3 Vanuatu; correct, sir?

4 A. Vanuatu is identified.

5 Q. All right, sir. And if you know, I have in my hand
6 Government's Exhibit 829. Do you know whether or not Bean Bag
7 Services is on this document?

8 A. Bean Bag Services is the -- is on that document as a
9 parent company of the Vanuatu companies.

10 Q. All right, sir. Thank you. And would you agree with
11 me, sir, that the aircraft that's been identified as N910WC,
12 according to the FAA registry, is an asset?

13 A. U.S. registration N910WC is an asset.

14 Q. All right, sir. Thank you. If we could go to the
15 next one. We're looking at Government's Exhibit 366-31.
16 Would you agree with me, sir, that the document we are looking
17 at is a document kept in the normal course of business by the
18 Federal Aviation Administration?

19 A. Yes.

20 Q. And particularly, this document -- in particular, the
21 document that is on the screen, would you agree that it deals
22 specifically with the aircraft that's been identified as
23 N911GP?

24 A. U.S. registration N911GP is identified.

25 Q. All right, sir. And according to the registry,

1 N911GP has a serial number, right, sir?

01:03PM

2 A. Yes.

01:03PM

3 Q. And according to the registry, N911GP is registered
4 as a corporation; correct, sir?

01:03PM

01:03PM

5 A. Corporation is identified.

01:03PM

6 Q. And would you agree, sir, that the registered owner,
7 according to the registry, of N911GP is a corporation called
8 South Pacific Spotters, Inc.?

01:03PM

01:03PM

9 A. South Pacific Spotters, Inc. is identified.

01:03PM

10 Q. And according to the registry, the location of the
11 corporation South Pacific Spotters, Inc. is the country of
12 Vanuatu?

01:04PM

01:04PM

01:04PM

13 A. Vanuatu is identified.

01:04PM

14 Q. And, sir, I've got Government's Exhibit 829 here, and
15 I'm happy to bring it up there. Do you know whether or not
16 South Pacific Spotters, Inc. is on this document?

01:04PM

01:04PM

01:04PM

17 A. It is.

01:04PM

18 Q. Okay. And, sir, here we are. Would you agree with
19 me, sir, that the aircraft identified in the FAA registry is
20 N911GP is an asset?

01:04PM

01:04PM

01:04PM

21 A. U.S. registry -- or U.S. registration N911GP is an
22 asset.

01:04PM

01:04PM

23 Q. All right, sir. Thank you. We could go to the next
24 one. In front of you, sir, is Government's Exhibit 366-31.
25 Would you agree with me, sir, that that is a record that is

01:05PM

01:05PM

01:05PM

1 kept in the normal course of business by the Federal Aviation
2 Administration?

3 A. Yes.

4 Q. And in particular, the record that is on the screen
5 in front of you, would you agree, deals specifically with an
6 aircraft that is identified as N9162F?

7 A. U.S. registration number N9162F is identified.

8 Q. And the registry reflects, would you agree, sir, that
9 there is a serial number for that aircraft?

10 A. A serial number is identified.

11 Q. And according to the registry, the registration for
12 N9162F is a corporation. Is that correct, sir?

13 A. A corporation is identified.

14 Q. And would you agree, sir, that the registered owner
15 is a corporation by the name of Rosie Air Support, Inc.

16 A. Rosie Air Support, Inc. is identified.

17 Q. And the location of Rosie Air Support, Inc. is in the
18 country of Vanuatu. Would you agree with that, sir?

19 A. Vanuatu is identified.

20 Q. And, sir, I've got again Government's Exhibit No.
21 829, the chart. Would you agree with me, sir, that Rosie Air
22 Support, Inc. is on this chart? If I need to bring to it over
23 there, I will.

24 A. No, I do recall it being on that chart. Thank you.

25 Q. All right. In particular, sir, would you agree that

1 the aircraft identified in the FAA registry as N9162F is an
2 asset?

3 A. U.S. registration N9162F is an asset.

4 Q. All right, sir. Thank you. Now, sir, I have in
5 front of us Government's Exhibit 366-32. Would you agree with
6 me, sir, that that is a record kept in the normal course of
7 business by the Federal Aviation Administration?

8 A. Yes.

9 Q. Would you agree with me, sir, that the document on
10 the screen specifically relates to the aircraft identified in
11 the registry as N9212F?

12 A. U.S. registration N9212F is identified on this
13 document.

14 Q. All right, sir. Would you agree with me, sir, that
15 according to the registry, this aircraft has a serial number?

16 A. A serial number is identified.

17 Q. And according to the registry, sir, N9212F is
18 registered as a corporation; correct, sir?

19 A. The helicopter is not registered as a corporation.

20 Q. The type of registration is a corporation; correct,
21 sir?

22 A. Yes.

23 Q. All right. Thank you. And the registry reflects
24 that the registered owner for N9212F is a company called
25 Judy's Helicopter Service, Inc. Would you agree with that,

1 sir?

01:08PM

2 A. Judy's Helicopter Service, Inc. is identified on this
3 document; yes.

01:08PM

01:08PM

4 Q. Okay. And the location for Judy's Helicopter
5 Service, Inc. is a country of Vanuatu; correct, sir?

01:08PM

01:08PM

6 A. Vanuatu is identified on this document.

01:08PM

7 Q. And do you know, sir, whether or not Judy's
8 Helicopter Service, Inc. is on Government's Exhibit
9 G-0829[sic]?

01:08PM

01:08PM

01:08PM

10 A. Could you bring it by, please?

01:09PM

11 Q. Absolutely.

01:09PM

12 A. Judy's Helicopter, Inc. is identified where your
13 finger is at.

01:09PM

01:09PM

14 Q. All right, sir. And would you agree with me, sir,
15 that the aircraft identified as N9212F, according to the FAA
16 registry, is an asset?

01:09PM

01:09PM

01:09PM

17 A. U.S. registration N9212F is an asset.

01:09PM

18 Q. All right, sir. If we could go to next one. In
19 front of you, sir, is Government's Exhibit 366-32. Would you
20 agree with me, sir, that this is a record kept in the normal
21 course of business of the Federal Aviation Administration?

01:09PM

01:09PM

01:09PM

01:09PM

22 A. Yes.

01:09PM

23 Q. Would you agree with me, sir, that the document now
24 on the screen relates specifically to an aircraft identified
25 by the registry as N9237F?

01:09PM

01:09PM

01:10PM

1 A. U.S. registration N9237F is identified. 01:10PM

2 Q. All right, sir. And would you agree with me, sir, 01:10PM
3 that the FAA registry reflects that this helicopter has a 01:10PM
4 serial number? 01:10PM

5 A. A serial number is identified. 01:10PM

6 Q. And that according to the registry, this helicopter, 01:10PM
7 excuse me, according to the registry, the type of registration 01:10PM
8 is a corporation, sir? 01:10PM

9 A. Yes, corporation is identified. 01:10PM

10 Q. And the registered owner, according to the registry, 01:10PM
11 is a corporation called Fling Air, Inc. You see that, sir? 01:10PM

12 A. Fling Air, Inc. is identified here; yes. 01:10PM

13 Q. All right. And the location for Fling Air, Inc. is 01:10PM
14 the country of Vanuatu; correct, sir? 01:10PM

15 A. Vanuatu is identified here. 01:10PM

16 Q. All right. And if we go to Government's Exhibit 01:10PM
17 G-0829, do you know, sir, whether or not Fling Air, Inc. is on 01:11PM
18 this document? 01:11PM

19 A. Yes. 01:11PM

20 Q. Okay. And would you agree with me, sir, that the 01:11PM
21 aircraft that's been identified as N9237F is an asset? 01:11PM

22 A. U.S. registration N9237F is an asset. 01:11PM

23 Q. All right, sir. If we could go to the next one. In 01:11PM
24 front of you, sir, is what's been marked and admitted for 01:11PM
25 identification -- and admitted as Government's Exhibit 366-33. 01:11PM

1 Is that a record that is kept in the regular course of
2 business by the Federal Aviation Administration, sir?

3 A. Yes.

4 Q. And particularly, the document on the screen, sir,
5 would you agree with me relates to the aircraft that is
6 identified as N9263F?

7 A. U.S. registration N9263F is identified.

8 Q. Would you agree, sir, that according to the registry,
9 helicopter 9236F has a serial number?

10 A. A serial number is reflected.

11 Q. And the type of registration for N9236F is a
12 corporation; correct, sir?

13 A. A corporation is reflected.

14 Q. An the registered owner is a corporation by the name
15 of Ohara Helicopters, Inc.; correct, sir?

16 A. Ohara Helicopters, Inc. is identified.

17 Q. And the location of Ohara -- Ohara Helicopters, Inc.
18 is a country of Vanuatu; correct, sir?

19 A. Vanuatu is identified.

20 Q. Sir, again, I have Government's Exhibit 0829 in my
21 hand. Do you know whether or not Ohara Helicopters, Inc. is
22 identified on this document?

23 A. Can I see the --

24 Q. Absolutely.

25 A. Ohara Helicopters, Inc. is identified here on this

1 document by your finger.

01:13PM

2 Q. All right, sir. And would you agree with me, sir,
3 that the aircraft identified as N9236F, according to the FAA
4 registry, is an asset?

01:13PM

01:13PM

01:13PM

5 A. U.S. registration number N9263F is an asset.

01:13PM

6 Q. All right, sir. Before you, sir, is Government's
7 Exhibit 366-33. Is this a record kept in the normal course of
8 business by the Federal Aviation Administration?

01:13PM

01:13PM

01:13PM

9 A. Yes.

01:13PM

10 Q. And would you agree with me, sir, that this
11 particular FAA document relates specifically to an aircraft
12 identified in the registry as N9938A?

01:13PM

01:14PM

01:14PM

13 A. U.S. registration N9938A is identified.

01:14PM

14 Q. And would you agree, sir, that this particular
15 document reflects that this aircraft has a serial number?

01:14PM

01:14PM

16 A. Yes, there is a serial number identified.

01:14PM

17 Q. And that the FAA registry reflects that the type of
18 registration is a corporation, sir?

01:14PM

01:14PM

19 A. The type of registration is a corporation.

01:14PM

20 Q. And the registered owner is a corporation called
21 South Pacific Spotters, Inc. Do you see that, sir?

01:14PM

01:14PM

22 A. South Pacific Spotters, Inc. is identified.

01:14PM

23 Q. All right, sir. And the location of South Pacific
24 Spotters, Inc. is the country of Vanuatu; correct, sir?

01:14PM

01:15PM

25 A. Vanuatu is identified.

01:15PM

1 Q. All right. And do you know, sir, whether or not
2 South Pacific Spotters, Inc. is identified on Government's
3 Exhibit G-0829?

4 A. Yes.

5 Q. All right, sir. Thank you. And would you agree with
6 me, sir, that the aircraft that's identified as N9938A,
7 according to the FAA registry, is an asset?

8 A. According to this, U.S. registration N9938A would be
9 an asset.

10 Q. All right, sir. Sir, before you is Government's
11 Exhibit G-366-34. Do you see that document, sir?

12 A. Yes.

13 Q. Would you agree with me, sir, that this is a document
14 that's kept in the normal course of business by the New
15 Zealand Civil Aviation Authority?

16 A. Yes, but this was actually, I mean, all the documents
17 talked about has been provided by the Hansen Helicopters.

18 Q. I'm asking you, do you recognize this as a document
19 that is kept in the normal course of business by the New
20 Zealand Civil Aviation Authority?

21 A. Yes.

22 Q. All right, sir. And would you agree with me, sir,
23 that this particular document deals with an aircraft with a
24 registration mark -- ZKHIA?

25 A. This document identifies ZKHIA as being New Zealand

1 registered.

01:16PM

2 Q. All right, sir. And it reflects that this aircraft
3 has a serial number; correct, sir?

01:16PM

01:17PM

4 A. Yes.

01:17PM

5 Q. And it's now, if we could scroll up just a little
6 bit. It is -- shows that Jon Darrell Walker is entitled to
7 the possession of that aircraft; correct, sir?

01:17PM

01:17PM

8 A. Jon Darrell Walker owns that aircraft.

01:17PM

9 Q. Well, it says, "name persons entitled to possession
10 of aircraft for a period of 28 days or longer"; if I read that
11 right.

01:17PM

01:17PM

12 A. Jon Darrell Walker is identified there; yes.

01:17PM

13 Q. Okay. All right. All right, sir. And would you
14 agree with me, sir, that the aircraft that's identified as
15 ZKHIA is an asset?

01:17PM

01:17PM

16 A. New Zealand registered ZKHIA would be an asset.

01:17PM

17 Q. All right, sir.

01:17PM

18 MR. MARTIN: May I have just a second, Your
19 Honor?

01:18PM

01:18PM

20 THE COURT: Yes, that's fine.

01:18PM

21 BY MR. MARTIN: (CONTINUING)

01:18PM

22 Q. In front of you, sir, I believe, is what's been
23 identified as Government's Exhibit 366-35. Do you recognize
24 that exhibit as a document that is kept in the normal course
25 of business by the New Zealand Civil Aviation Authority?

01:18PM

01:18PM

01:18PM

01:18PM

1 A. Yes.

01:18PM

2 Q. And would you agree, sir, that this particular
3 document deals specifically with an aircraft identified as
4 ZKHMF?

01:18PM

01:18PM

01:18PM

5 A. ZKHMF is a New Zealand-registered aircraft.

01:18PM

6 Q. And would you agree, sir, that this aircraft has a
7 serial number?

01:18PM

01:18PM

8 A. Yes.

01:18PM

9 Q. And does it indicate that Mr. Walker is entitled to
10 possess that aircraft for 28 days or longer, sir?

01:18PM

01:19PM

11 A. Yes, sir, and he's on that document as well.

01:19PM

12 Q. And does it show in particular that this is care of
13 Oceania Aviation Limited, sir?

01:19PM

01:19PM

14 A. As to the address; yes.

01:19PM

15 Q. Right. All right, sir. And would you agree with me,
16 sir, that the aircraft identified as ZKHMF is an asset?

01:19PM

01:19PM

17 A. It's an asset to Jon Walker; yes.

01:19PM

18 Q. All right, sir. It's an asset too, right, sir? It's
19 just an asset?

01:19PM

01:19PM

20 A. Just an asset, if we're limited to that; yes.

01:19PM

21 Q. That's what I'm asking, is it an asset?

01:19PM

22 A. Yes, yes.

01:19PM

23 Q. Thank you, sir. Okay, sir. Sir, in front of you is
24 Government's Exhibit 366-36. Do you recognize that as a
25 document kept in the normal course of business by the

01:19PM

01:20PM

01:20PM

1 Department of Transportation for the Republic of the
2 Philippines?

3 A. This is similar to what I've seen; yes.

4 Q. All right. Would you agree with me, sir, that this
5 is a certificate of registration for the Philippines, in
6 particular, relating to an aircraft identified as RPC588?

7 A. RPC588 is identified on this document.

8 Q. And would you agree with me, sir, that this aircraft
9 has a serial number?

10 A. A serial number is reflected on this document.

11 Q. All right, sir. And, sir, let me ask you, would you
12 agree that the aircraft identified as RPC588 in this document
13 from the Philippines, the certificate of registration, is an
14 asset?

15 A. RPC588 Philippine-registered helicopter would be an
16 asset.

17 Q. All right, sir. Thank you. And --

18 (Pause.)

19 BY MR. MARTIN: (CONTINUING)

20 Q. Would you agree with me, sir, that any helicopter,
21 whether or not it is registered or not, is an asset?

22 A. To who, or just in general?

23 Q. Just in general, a helicopter is an asset?

24 A. To the owner; yes. An asset to the owner. If we're
25 just talking generally; yes.

1 Q. Okay. Let me ask you, sir -- oh, I forgot we need to 01:22PM
2 pull that back up, I need to go back to one document. I 01:22PM
3 forgot. Just a second. I apologize. I would like to go back 01:22PM
4 to Government's Exhibit 366-23. If we could bring that up. 01:22PM
5 Okay. This is -- do you recall -- this is Government's 01:23PM
6 Exhibit 366-23. Would you agree, sir, this is a record that 01:23PM
7 was kept in the regular course of business by the Federal 01:23PM
8 Aviation Administration? 01:23PM

9 A. Yes. 01:23PM

10 Q. And it's a document relating -- in particular to 01:23PM
11 N74AM, which you previously testified about; correct? 01:23PM

12 A. U.S. registration N74AM; yes, I recall talking about 01:23PM
13 this earlier before the break. 01:23PM

14 Q. As a matter of fact, pardon me, dealt with a 01:23PM
15 corporation by the name of Fling Air, Inc. Do you recall 01:23PM
16 that, sir? 01:23PM

17 A. I recall Fling Air, Inc.; yes. 01:23PM

18 Q. And do you recall in that particular -- in this 01:23PM
19 particular case, relating to this particular aircraft, the 01:24PM
20 location of Fling Air, Inc. was Guam. Do you recall that, 01:24PM
21 sir? 01:24PM

22 A. Yes. 01:24PM

23 Q. And do you recall my questions about you -- to you 01:24PM
24 relating to Toyota, Mitsubishi, that corporations, foreign 01:24PM
25 corporations, can operate in the United States. Do you recall 01:24PM

1 those questions?

01:24PM

2 A. If we're talking in general, foreign corporations can
3 operate in the U.S.

01:24PM

01:24PM

4 Q. Okay. Well I'm -- that's what I meant.

01:24PM

5 A. Okay.

01:24PM

6 Q. And would you agree with me, sir, that this FAA
7 registry, this document, identified in Government's
8 Exhibit 366-23 reflects that this is a foreign corporation?

01:24PM

01:24PM

9 A. No, that's incorrect.

01:24PM

10 Q. That's incorrect? Do you see the word "foreign"
11 there, sir?

01:25PM

01:25PM

12 A. I see that.

01:25PM

13 Q. Okay. All right. Well, if we can go on, I'm through
14 with this document. Would you agree, sir -- I want to go back
15 to the contracts. If you don't remember, I'm happy to pull
16 one up, and we can go over it. But would you agree, sir, that
17 the contracts, the leases in this case, which form part of
18 your investigation relating to Counts 100 through 104, those
19 are the wire fraud counts, right, sir?

01:25PM

01:25PM

01:25PM

01:25PM

01:25PM

01:25PM

01:25PM

20 A. The leases cover the entirety, so it also includes 99
21 as well.

01:25PM

01:25PM

22 Q. Well, right now I'm talking about -- do you have the
23 indictment in front of you? I think I gave it to you this
24 morning.

01:25PM

01:25PM

01:25PM

25 A. Yes.

01:25PM

1 Q. Okay. 01:25PM

2 A. You just want me to focus on those particular counts? 01:25PM

3 Q. Well, the wire fraud counts relate to 100 01:26PM

4 through 104. Would you agree with that, sir? 01:26PM

5 A. It's part of the evidence; yes. 01:26PM

6 Q. No, I said the wire -- my question was, the wire 01:26PM

7 fraud counts relate to Counts 100 through 104. Would you 01:26PM

8 agree with that? That's what the wire fraud counts that are 01:26PM

9 covered in the indictment? 01:26PM

10 A. No, it's 99. It also includes 99. 01:26PM

11 Q. Well, 99 is conspiracy to commit wire fraud. I'm 01:26PM

12 talking about wire fraud, okay. 01:26PM

13 A. Those -- those counts after 99, 100 through 105 are 01:26PM

14 part or a sample of what makes up 99. Count 99. 01:26PM

15 Q. Okay. Let me ask this question very delicately, and 01:26PM

16 I want you to listen to me. You have the indictment in front 01:26PM

17 of you, sir? 01:26PM

18 A. What page would you like me to turn to? 01:26PM

19 Q. Do you have the indictment in front of you, sir? 01:26PM

20 A. Yes, sir. Right here. 01:26PM

21 Q. All right. And would you agree with me, sir, that 01:26PM

22 Counts 100, 101, 102, 103 and 104 specifically relate to wire 01:26PM

23 fraud? 01:27PM

24 A. Yes. 01:27PM

25 Q. Okay. Now, in that regard, sir, the tuna boat 01:27PM

Cross - Khamvongsa

1 companies had written contracts with the company that provided
2 a helicopter to them for tuna spotting; correct, sir?

3 Wilma's?

4 A. We're just talking specifically about the contract?

5 Q. Yes, sir. They had contracts, right?

6 A. The contracts existed; correct.

7 Q. And the contracts provided that the helicopter --
8 excuse me, the contracts provided that the tuna boat companies
9 had the opportunity to inspect every helicopter before they
10 left port and went to go do their tuna operations; correct,
11 sir?

12 A. No.

13 Q. They didn't have the opportunity to inspect them?

14 A. Not adequate opportunity, no.

15 Q. I said -- let's pull up Government's Exhibit 3280,
16 please. Sir, I'm going ask you questions, and I would like
17 you to answer the questions I ask and not reform them and
18 reword them. Can you do that for me?

19 A. I'll do the best I can, sir. Thank you.

20 Q. All right. So if we can pull up 3280, please. Sir,
21 we are looking at what's identified as Government's
22 Exhibit 2900-3280. Do you see that, sir? Do you see that
23 document?

24 A. I see a portion of it; yes.

25 Q. Okay. A portion of it. Let's start at the top then.

1 Do you see the top page?

01:29PM

2 A. Yes.

01:29PM

3 Q. And this is -- we testified yesterday, I believe, or
4 maybe it was this morning, it's been awhile. I know we
5 testified yesterday, you and I were going yesterday, that this
6 particular document deals specifically with Count 100, right,
7 sir?

01:29PM

01:29PM

01:29PM

01:29PM

01:29PM

8 A. Uh-huh.

01:29PM

9 Q. If you need to look at indictment, go right ahead.

01:29PM

10 A. Yeah, it looks -- yes. Yes.

01:29PM

11 Q. You're agreeing with me it deals with specifically
12 Count 100?

01:30PM

01:30PM

13 A. It makes up a part of -- it's one of the pieces of
14 evidence that makes up Count 100; yes.

01:30PM

01:30PM

15 Q. Okay. So the first part is basically the date and
16 the parties, right, sir?

01:30PM

01:30PM

17 A. Wilma's Flight Services, Inc. is the lessor and
18 Friesland Fishing Company is the lessee; yes.

01:30PM

01:30PM

19 Q. Okay. If we can go up just a little bit. I want to
20 go to Section 1. Section 1, do you see Section 1, lease of
21 aircraft, sir?

01:30PM

01:30PM

01:30PM

22 A. Yes.

01:30PM

23 Q. Do you see, sir, where it specifically provides that
24 the lessee shall have 24 hours from arrival of the aircraft in
25 which to provide lessor written notification of any defects in

01:30PM

01:30PM

01:30PM

1 the aircraft or its equipment and accessories or in case the
2 pilot is not sufficient, capable for his work according to the
3 judgment of the captain. In absence of written notification,
4 lessee agrees it is satisfied with and finds the aircraft and
5 its equipment and accessories to be accessible. Do you see
6 that in Section 1 of Government's Exhibit 2900-3280, sir?

7 A. I see that.

8 Q. All right. The tuna boat companies were given the
9 option to inspect the helicopters. Isn't that true, sir?

10 A. The option to inspect? Yes.

11 Q. All right, sir. And as a matter of fact, if they
12 weren't satisfied, they could notify the lessor, and they
13 could either get a replacement or something like that;
14 correct, sir?

15 A. It appears that way on the contract.

16 Q. All right. And as a matter of fact, there are other
17 portions of the contract that provide if something happens to
18 the helicopter, during the term of this lease, it can be
19 replaced; correct, sir?

20 A. Yes, in that sense; yes.

21 Q. All right. Now, you'll agree with me, won't you,
22 sir, -- I'm through with that now. Thanks. That -- you'll
23 agree with me, won't you, sir, that a helicopter was provided
24 with every lease that was done with the tuna boat companies;
25 correct, sir?

1 A. Um, no. 01:32PM

2 Q. There were tuna boats that did not get helicopters? 01:32PM

3 A. They were not airworthy. 01:32PM

4 Q. Sir, did I use the word "airworthy"? 01:32PM

5 A. Well, if we're talking about contract -- 01:32PM

6 Q. Did I use -- my question, did I use the word 01:32PM

7 "airworthy"? And I'm asking a question, did I use the word 01:32PM

8 "airworthy"? 01:32PM

9 A. No. 01:32PM

10 Q. All right. 01:32PM

11 A. All right. 01:32PM

12 Q. So let's go back to my question. Did every tuna boat 01:32PM

13 get a helicopter? 01:32PM

14 A. A helicopter was provided. 01:33PM

15 Q. Okay. Thank you, sir. Now, are you an FAA certified 01:33PM

16 A&P mechanic, sir? 01:33PM

17 A. I am not. 01:33PM

18 Q. Are you an FAA certified, I believe it's called an 01:33PM

19 AI, sir? 01:33PM

20 A. I am not. 01:33PM

21 Q. All right. And you know what those terms are, don't 01:33PM

22 you, sir? 01:33PM

23 A. I do know what they refer to loosely. 01:33PM

24 Q. They refer to someone that has a specialized 01:33PM

25 certificate to inspect, repair and correct any issues with a 01:33PM

1 helicopter, generally speaking. Would you agree with that?

01:33PM

2 A. And, again, that's -- that is in reference to what
3 the FAA provides; correct? Like a certification?

01:33PM

4 Q. Correct.

01:33PM

5 A. Yeah, the FAA does provide that.

01:33PM

6 Q. Okay, sir. Now, would you agree with me, sir, that
7 in Count 99 of the indictment, and you may look at it, I think
8 I've given you a copy of it to look at, do you have Count 99
9 in front of you, sir?

01:34PM

01:34PM

01:34PM

01:34PM

10 A. Starting on page 33, sir?

01:34PM

11 Q. Yes, sir. And if we're going to -- if you would you
12 go to page 34, sir.

01:34PM

13 A. Yes, sir.

01:34PM

14 Q. In particular, starting at paragraph 26, there are
15 numerous aircraft that begin with the designation N at page --
16 excuse me, at paragraph 26. Do you see all those, sir?

01:34PM

01:35PM

01:35PM

17 A. You're talking about paragraph 126 -- starting at
18 subsection A though subsection RR?

01:35PM

01:35PM

19 Q. That's correct, sir. Thank you. Yeah, and those are
20 helicopters that have been identified by an N registration;
21 correct, sir?

01:35PM

01:35PM

01:35PM

22 A. Those are U.S.-registered helicopters; yep.

01:35PM

23 Q. And those helicopters, many of them, you and I, over
24 the last hour or two, probably closer to two --

01:35PM

01:35PM

25 A. Probably two.

01:35PM

1 Q. -- we have identified for this jury; correct, sir? 01:35PM

2 A. We identified they're U.S.-registered helicopters; 01:36PM
3 yes. 01:36PM

4 Q. And many of those are contained in paragraph 126 of 01:36PM
5 the indictment? 01:36PM

6 A. Yes. 01:36PM

7 Q. And those are the same aircraft that were registered, 01:36PM
8 many of them, with Vanuatu corporations; correct, sir? 01:36PM

9 A. They're actually U.S.-registered corporations. 01:36PM

10 Q. In Vanuatu, is that what you're saying? 01:36PM

11 A. The country identified for -- the address shows 01:36PM
12 Vanuatu. 01:36PM

13 Q. All right, sir. They are alleged to be -- they are, 01:36PM
14 according to the FAA registry, what you testified to, the 01:36PM
15 companies are located in Vanuatu; correct, sir? 01:36PM

16 A. Yes. 01:36PM

17 Q. Okay. 01:36PM

18 A. Purportedly. 01:36PM

19 Q. And -- and -- so it's your testimony then, I guess as 01:36PM
20 a legal expert, that Vanuatu allows U.S. corporations in their 01:37PM
21 country? 01:37PM

22 A. According to the Constitution, there is a -- it does 01:37PM
23 allow for it to exist by name, but they can't carry on 01:37PM
24 business in Vanuatu. 01:37PM

25 Q. And when did you get your legal degree, sir? 01:37PM

1 A. Where did I get my legal degree? I base it upon the
2 evidence.

3 MS. M. MILLER: Your Honor, I'm --

4 MR. MARTIN: I'm asking you -- my question was --

5 MS. M. MILLER -- I'm going to object and move to
6 strike Mr. Martin's comment about where did you get your legal
7 degree.

8 MR. MARTIN: That was a question, Your Honor.

9 MS. M. MILLER: He's asking him for legal
10 conclusion.

11 THE COURT: Hold on just a minute, let me hear
12 the objection. What was the objection?

13 MS. M. MILLER: Yeah. He's asking him for legal
14 conclusions, and then when the witness is giving him his
15 answer, he's arguing with him. "When did you get your legal
16 degree?" I objected previously when he asked a legal
17 conclusion, and that was overruled. But does the comeback, if
18 that's the question he's going to ask, is appropriate, and I
19 move to strike it.

20 THE COURT: And? And?

21 MR. MARTIN: Your Honor, I asked him a question
22 about whether or not U.S. companies could operate in Vanuatu.
23 He gave me an opinion, and I asked him when he got his legal
24 degree.

25 THE COURT: Overruled, go ahead. Overruled.

1 Cross-exam -- I mean, yeah, this is cross-exam. Go ahead. 01:38PM

2 BY MR. MARTIN: (CONTINUING) 01:38PM

3 Q. Would you tell the ladies and gentlemen of the jury 01:38PM

4 where you got your legal degree, sir? 01:38PM

5 A. Um, I don't have a legal degree, but I did get 01:38PM

6 training in law -- as it relates to my job in reviewing 01:38PM

7 statutes. 01:38PM

8 Q. You don't have a legal degree? 01:38PM

9 A. No. 01:38PM

10 Q. Okay. Thank you. Now, also, these N helicopters, 01:38PM

11 that are in Count 99, which is paragraph... 01:38PM

12 MR. MARTIN: I think I'm done. 01:39PM

13 MS. MCCONWELL: Mr. Martin, do you -- 01:39PM

14 MR. MARTIN: May I borrow the indictment, sir? 01:39PM

15 THE WITNESS: Yes. 01:39PM

16 MS. MCCONWELL: Mr. Martin, do you want me to put 01:39PM

17 it on the screen? 01:39PM

18 THE WITNESS: Here you go. 01:39PM

19 MR. MARTIN: Thank you. 01:39PM

20 THE WITNESS: Thank you, sir. 01:39PM

21 BY MR. MARTIN: (CONTINUING) 01:39PM

22 Q. I just want to make sure we're -- there we go. I 01:39PM

23 just want to make sure you and I are talking about the -- can 01:39PM

24 you see the screen, sir? 01:39PM

25 A. Yes, sir. 01:39PM

1 Q. We're talking about these helicopters, I'm just going 01:39PM
2 to circle it with my finger, those there, and these particular 01:39PM
3 helicopters right here identified with an N number, are we not 01:39PM
4 sir? So we're on the same page. 01:39PM

5 A. U.S.-registered helicopters; yes. 01:39PM

6 Q. Okay. So these here and these here? 01:40PM

7 A. Yes. 01:40PM

8 Q. All right. Sir. And those are the same helicopters 01:40PM
9 that we talked about that are listed in the FAA registry, many 01:40PM
10 of them, not necessarily all of them, but almost all of them. 01:40PM
11 Would you agree with that, sir? 01:40PM

12 A. They are identified in the FAA registry, those 01:40PM
13 helicopters; yes. 01:40PM

14 Q. Okay. And you would agree with me, sir, that, as you 01:40PM
15 have, and we've talked about it, that each of those 01:40PM
16 helicopters is an asset? 01:40PM

17 A. They are an asset. 01:40PM

18 Q. All right. Okay, sir, and... you also testified, 01:40PM
19 sir, not only relating to the conspiracy to commit wire fraud 01:41PM
20 and the wire fraud counts, but you testified relating to the 01:41PM
21 engaging in a monetary transaction or what's commonly referred 01:41PM
22 to as money laundering counts. Do you recall that, sir? 01:41PM

23 A. I did testify to that. 01:41PM

24 Q. And those are outlined in Counts 105 through 110. 01:41PM
25 Would you agree with that? 01:41PM

1 A. Yes.

01:41PM

2 Q. If I can turn -- just so that I make sure we're on
3 the same pain again here. I'm going to show you, from the
4 indictment, Count 105 and 106 are reflected here; correct,
5 sir?

01:41PM

01:41PM

01:41PM

01:42PM

6 A. Yes.

01:42PM

7 Q. And those relate to the transfers of funds from the
8 Caledonian bank to a -- from the Caledonian account in the
9 Bank of Hawaii to the Hansen Northern account in the Bank of
10 Hawaii; correct, sir?

01:42PM

01:42PM

01:42PM

01:42PM

11 A. Caledonian Bank of Hawaii corporate bank account to
12 Hansen Northern Bank of Hawaii corporate bank account, the
13 \$3,000,000 transfer; yes.

01:42PM

01:42PM

01:42PM

14 Q. And, additionally, Counts 107 through 110, we're on
15 the next page, also relates to the transfer of funds; correct,
16 sir?

01:42PM

01:42PM

01:42PM

17 A. Electronically-transferred funds; yes.

01:42PM

18 Q. Correct. Correct. And the premise behind those is
19 that the funds that were transferred were, quote,
20 criminally-derived property; correct, sir?

01:42PM

01:42PM

01:43PM

21 A. Yes.

01:43PM

22 Q. And if those funds are not criminally-derived
23 property, those money laundering counts cannot stand. Isn't
24 that true, sir?

01:43PM

01:43PM

01:43PM

25 A. I would never have included that or recommended that.

01:43PM

1 Q. I didn't ask you what you recommended or what you
2 concluded. I asked you, isn't it true, sir, that if those
3 funds are not criminally-derived property, those counts cannot
4 stand?

5 A. That's for the jury to decide.

6 Q. I agree with you, sir. I agree with you 100%. If
7 the jury were to decide those are not criminally-derived
8 property, those counts can't stand. Isn't that true, sir?

9 A. Are we talking generally, or are we talking about
10 this case?

11 Q. I'm talking about the law, sir. If you don't know
12 the law, just tell me. Do you not -- I tell you what, I'll
13 withdraw that question. May I have just one moment, Your
14 Honor? I need to talk to co-counsel.

15 THE COURT: You may have one minute. Yeah, no
16 I'm just -- we still -- recess not until two, but go ahead.

17 MR. MARTIN: I don't think I can discuss it with
18 him that long, Your Honor.

19 THE COURT: Yeah, I didn't think so. Go ahead.

20 MR. MARTIN: Thank you, agent. No further
21 questions, Your Honor.

22 THE COURT: All right. Thank you, Mr. Martin.
23 Why don't we just go ahead and take our -- we'll take our
24 recess early, and just still keep it at 15 minutes. So ladies
25 and gentlemen, keep an open mind, do not form or express any

1 opinion on this case, but when you come back, Ms. Miller, will
2 begin redirect. Please rise for the jury.

3 (Jury out at 1:45 p.m.)

4 THE COURT: Okay. I'll see you guys in
5 15 minutes.

6 (Recess taken at 1:45 p.m.)

7 (Back on the record at 2:18 p.m.)

8 THE COURT: Okay. We ready to proceed, Counsels?

9 MS. M. MILLER: Yes, Your Honor.

10 THE COURT: All right. We'll call in the jury.
11 Sorry for that delay. We have a 4:00, right?

12 MS. M. MILLER: Yes. And then we're having the
13 hearing, Your Honor, at that time?

14 THE COURT: Right. Shouldn't take too long.
15 I'll just rule from the bench.

16 MS. M. MILLER: Okay. Thank you.

17 THE COURT: I don't think I need to hear
18 arguments.

19 MS. M. MILLER: Okay.

20 THE COURT: So let me see.

21 (Pause.)

22 THE COURT: Maybe just a couple of questions.
23 Oh, how long do you think you'll be, Ms. Marie Miller?

24 MS. M. MILLER: Probably go until 4.

25 THE COURT: Okay. You think you'll be done with

1 the witness?

02:19PM

2 MS. M. MILLER: I'm hoping -- I'm hoping we will
3 be.

02:19PM

02:19PM

4 THE COURT: How long have you been here? On the
5 stand?

02:19PM

02:19PM

6 THE WITNESS: How long I have been on the stand?
7 I think --

02:19PM

02:19PM

8 THE COURT: How many hours, days?

02:19PM

9 THE WITNESS: Day five.

02:19PM

10 MS. M. MILLER: I think you've spent more time
11 off the stand though then on. You don't think so?

02:19PM

02:19PM

12 MR. MARTIN: June 8th. All day June 8th.

02:19PM

13 THE WITNESS: Oh, so I could include all the time
14 in between.

02:19PM

02:19PM

15 THE COURT: I notice when you said "assets," you
16 were like assets.

02:19PM

02:19PM

17 THE WITNESS: Assets.

02:19PM

18 THE COURT: Is there a meaning to that?

02:19PM

19 (Laughing.)

02:20PM

20 THE COURT: You emphasized. Just joking. But
21 not really.

02:20PM

02:20PM

22 (Jury in at 2:20 p.m.)

02:20PM

23 THE COURT: All right. Please be seated. I'm
24 sorry, I thought it would only be about fifteen minutes, but
25 went a little longer than I thought. I had some other legal

02:20PM

02:20PM

02:20PM

1 matters to take care in my chamber on my other cases. All
2 right. So we'll go ahead and begin.

3 Ms. Marie Miller, go ahead.

4 MS. M. MILLER: Thank you, Your Honor. Good
5 afternoon, members of the jury. Thank you.

6
7 **REDIRECT EXAMINATION**

8 BY MS. M. MILLER:

9 Q. Special Agent Khamvongsa, Mr. McConwell asked you
10 about the essential parts of the tuna boat contracts. Do you
11 recall those questions?

12 A. Um, I recall him asking something to that effect;
13 yeah.

14 Q. Okay. Can you tell the members of the jury why is
15 the registration number is an essential part of the tuna boat
16 contract?

17 A. The registration number is essential because it
18 identifies the helicopter, as well as to what country it's
19 registered to, which means that whatever country is reflected
20 by the prefixes determines what laws they have to follow. In
21 this case, any time it's an N registration, it is -- has to
22 follow FAA laws or regulations.

23 Q. Why, when Mr. Martin asked you whether the words
24 "Federal Aviation Administration" or "FAA" were in the
25 contracts he showed you, did you say that yes, they are,

Redirect - Khamvongsa

1 because of that registration number?

02:21PM

2 A. Why did I say that?

02:21PM

3 Q. Yes.

02:21PM

4 A. Because the helicopters in which I reviewed and that
5 contract, it specifically identified an N-number which is a
6 U.S. registration number. So you are -- so those helicopters
7 are bound by the rules and regulations of the Federal Aviation
8 Authority.

02:21PM

02:21PM

02:22PM

02:22PM

02:22PM

9 Q. Why is the lessor, the name of the company that's
10 leasing the helicopter to the tuna boat company, an essential
11 part of the contract?

02:22PM

02:22PM

02:22PM

12 A. The lessor is important because it identifies who the
13 operator is, what is reflected in the registry, if there is --
14 in this case, there was a lot of misrepresentations in the
15 contract where the lessor --

02:22PM

02:22PM

02:22PM

02:22PM

16 MR. MARTIN: Your Honor, I object. I object to
17 the use of the term *misrepresentations*. He can testify as to
18 what his investigation said, but him characterizing something
19 as misrepresentation, he needs to talk about what the contract
20 said, not whether it was misrepresenting or not. And it calls
21 for a conclusion, and I object to a conclusion.

02:22PM

02:22PM

02:22PM

02:22PM

02:22PM

02:22PM

22 THE COURT: All right. Yes, Ms. McConwell?

02:22PM

23 MS. MCCONWELL: And it lacks foundation.

02:22PM

24 THE COURT: I'm sorry, lacks foundation?

02:23PM

25 MS. MCCONWELL: Yes.

02:23PM

1 THE COURT: All right.

02:23PM

2 MS. M. MILLER: Well, Your Honor, we already
3 heard testimony from Special Agent Khamvongsa that even though
4 the contract said the lessor was one company and paragraph 8
5 of the contract said that the lessor must be the registered
6 owner, that that was not true. It is appropriate for an IRS
7 special agent to identify misrepresentations and
8 inconsistencies, and I do have case law to cite, Your Honor,
9 if necessary, regarding that, that is not --

02:23PM

02:23PM

02:23PM

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02:23PM

02:23PM

02:23PM

02:23PM

02:23PM

10 THE COURT: Okay.

02:23PM

11 MS. M. MILLER: -- opinion.

02:23PM

12 THE COURT: If he wants to identify
13 inconsistencies, he can do that.

02:23PM

14 MS. M. MILLER: Yes, we could use the word
15 inconsistency instead of misrepresentation.

02:23PM

02:23PM

16 THE COURT: Well, okay.

02:23PM

17 MS. M. MILLER: Although -- inaccuracy is another
18 word.

02:23PM

02:23PM

19 THE COURT: Okay, if it relates to this
20 contract --

02:23PM

02:23PM

21 MS. M. MILLER: Yes.

02:23PM

22 THE COURT: -- in question, then he can do that,
23 and if it's related to what was already brought out during
24 cross-examination, the Court will allow that.

02:23PM

02:23PM

02:23PM

25 MS. M. MILLER: Yes.

02:23PM

1 MR. MARTIN: My objection was conclusions and 02:23PM
2 speculation, Your Honor. 02:23PM

3 THE COURT: All right. The Court will sustain 02:23PM
4 the objection to that extent, but as far as his personal 02:23PM
5 knowledge and investigation. 02:24PM

6 MS. M. MILLER: Yes. 02:24PM

7 THE COURT: The Court will allow that. Go ahead. 02:24PM

8 BY MS. M. MILLER: (CONTINUING) 02:24PM

9 Q. Yes. So Special Agent Khamvongsa, could you remind 02:24PM
10 the jury were there inconsistencies between the name of the 02:24PM
11 lessor in the contracts and the name of the registered owner 02:24PM
12 and what we've seen in the FAA files? 02:24PM

13 A. Yes. 02:24PM

14 Q. So Section 8 of the contract that says, the lessor 02:24PM
15 shall be the registered owner. If the lessor is not the 02:24PM
16 registered owner, isn't that a misrepresentation of who the 02:24PM
17 lessor is? 02:24PM

18 MR. MARTIN: Your Honor, this is a leading 02:24PM
19 question, Your Honor. She can ask him -- 02:24PM

20 MS. M. Miller: It is not. 02:24PM

21 THE COURT: All right. Wait. Wait just a 02:24PM
22 minute, just rephrase it. 02:24PM

23 MS. M. MILLER: Yes, Your Honor. 02:24PM

24 THE COURT: It is leading. 02:24PM

25 BY MS. M. MILLER: (CONTINUING) 02:24PM

Redirect - Khamvongsa

1 Q. So can you please tell the members of the jury, as an 02:24PM
2 experienced IRS agent, what do you make of a situation where 02:24PM
3 the lessor is named with a name, the contract requires that 02:24PM
4 person to be the registered owner, and it is not? 02:25PM

5 A. It is inconsistent with the contract. 02:25PM

6 MS. MCCONWELL: That calls for a conclusion. 02:25PM

7 THE COURT: I'm sorry? 02:25PM

8 MS. MCCONWELL: I said I think this calls for a 02:25PM
9 legal conclusion. 02:25PM

10 THE COURT: All right. Overruled. Go ahead. 02:25PM

11 THE WITNESS: The name on the FAA registry is 02:25PM
12 inconsistent with what's reflected on the contract. 02:25PM

13 BY MS. M. MILLER: (CONTINUING) 02:25PM

14 Q. Okay. Why is airworthiness an essential part of a 02:25PM
15 contract? 02:25PM

16 A. So if we go back to the registration, the N 02:25PM
17 registration is representing that it is a aircraft is being 02:25PM
18 provided that meets the standards of the FAA. So in this 02:25PM
19 case, the representations made that this is an airworthy 02:25PM
20 aircraft to the tuna boat companies, the tuna boat companies 02:25PM
21 are believing that's what they're getting. 02:25PM

22 Q. Okay. Did you ever see anything in any of the 02:25PM
23 contracts that indicated that these aircraft were on the 02:26PM
24 destroyed list? 02:26PM

25 A. No. 02:26PM

1 Q. Was there anything in the contract that indicated
2 that the aircraft had been illegally rebuilt?

3 A. No indication in the contract.

4 Q. How about whether the helicopters were actually
5 foreign helicopters not eligible for FAA registration?

6 A. That was never reflected in the contract.

7 Q. How about the fact that some of the airworthiness
8 certificates were obtained as a result of a bribe?

9 A. That was not reflected in the contract, which affects
10 airworthiness.

11 Q. Why is the qualification of the airman, who were also
12 being leased with the helicopters, an essential part of the
13 contract?

14 A. Again, if we go back to the registration, these are
15 U.S.-registered helicopters, which must comply with the FAA.
16 So an airman, such as a pilot or mechanic, must be FAA
17 certificated; in this case, they were not.

18 MS. M. MILLER: Your Honor, I'd like to show the
19 witness what has been previously marked, but not admitted yet,
20 as Government's Exhibit 430.

21 THE COURT: All right. Counsel, you -- they have
22 a copy of that?

23 MS. M. MILLER: They do.

24 THE COURT: All right. Are you going to flash it
25 up?

1 MS. M. MILLER: It hasn't been admitted yet, Ms. 02:27PM
2 Santos. 02:27PM
3 THE COURT: All right. 430. You want to -- 02:27PM
4 Okay. Agent can see that. 02:27PM
5 BY MS. M. MILLER: (CONTINUING) 02:27PM
6 Q. And if you could take a moment and please review that 02:27PM
7 document. 02:27PM
8 A. (Witness read document.) 02:28PM
9 THE COURT: Is there a specific paragraph here 02:28PM
10 that you're focused on, Counsel? If you are -- 02:29PM
11 MS. M. MILLER: It's the entire e-mail, Your 02:29PM
12 Honor. 02:29PM
13 THE COURT: All right. Can you make this, 02:29PM
14 please, a little bigger, Counsel? 02:29PM
15 MS. M. MILLER: Yes, Ms. Miller. 02:29PM
16 MS. S. MILLER: Yes. 02:29PM
17 MS. M. MILLER: Highlight the bottom part of it 02:29PM
18 or pull it out. 02:29PM
19 THE WITNESS: Okay. 02:29PM
20 BY MS. M. MILLER: (CONTINUING) 02:29PM
21 Q. Did you read it, sir? 02:29PM
22 A. Yes. 02:29PM
23 Q. Can you tell -- 02:29PM
24 MR. MARTIN: Has it been admitted or not, Your 02:29PM
25 Honor. 02:29PM

Redirect - Khamvongsa

1 THE COURT: No, it has not been admitted she 02:29PM
2 said. So she's -- I guess she's going to try and set a 02:29PM
3 foundation. 02:29PM

4 MS. M. MILLER: Correct. 02:29PM

5 MR. MARTIN: I thought you asked him to read it. 02:29PM

6 MS. M. MILLER: No, I said have you read it. 02:29PM

7 MR. MARTIN: I'm sorry, Marie. I couldn't hear. 02:29PM

8 BY MS. M. MILLER: (CONTINUING) 02:29PM

9 Q. Have you read it, sir? 02:29PM

10 A. I just read it as of now. 02:29PM

11 Q. Yes. Do you recognize it? 02:29PM

12 A. It's -- yes. 02:29PM

13 Q. Okay. Is it a true and correct copy of what was 02:29PM
14 seized from the Defendant's computers? 02:29PM

15 A. Yes. 02:29PM

16 MS. M. MILLER: Your Honor, at this time, I would 02:29PM
17 offer into evidence what has been previously been marked as 02:29PM
18 Government's Exhibit 430. 02:29PM

19 MR. MARTIN: Your Honor, I have an objection, but 02:29PM
20 I think it would be appropriate for the jury be excused for 02:29PM
21 this purpose. And I apologize, but we had no idea this 02:30PM
22 exhibit was going to be brought in. 02:30PM

23 MS. M. MILLER: Could we just approach the bench 02:30PM
24 to talk about that, Your Honor? As opposed to sending the 02:30PM
25 jury out again so soon after break. 02:30PM

1 THE COURT: Can we get on the thing there? Does 02:30PM
2 it work? Well, let's see if it works, I'd rather just stay 02:30PM
3 over here. Keep you guys over there. Don't get too close to 02:30PM
4 me. You guys have been traveling, and so have I. I don't 02:30PM
5 want to give anything to you either. I'm not trying to be. 02:30PM
6 (Technical issues with sidebar connection.) 02:30PM
7 (Pause.) 02:32PM
8 THE COURT: I guess it's on vacation or 02:32PM
9 something. Mine won't even start. You don't know what 02:32PM
10 channel yours -- 02:32PM
11 MS. M. MILLER: It will turn on, but it doesn't 02:32PM
12 allow the speaker to turn on. 02:32PM
13 THE COURT: I think there is -- and sorry, but 02:32PM
14 our guy is -- 02:32PM
15 MS. M. MILLER: Not here. 02:32PM
16 THE COURT: -- not here. I don't know something 02:32PM
17 happened to him. So we'll try to fix it tomorrow, but in the 02:32PM
18 meantime, I'm going to excuse the jurors. Sorry, jurors, but 02:32PM
19 you know, take a stretch. Keep an open mind. Take a stretch. 02:32PM
20 Hopefully, it won't be that long. 02:32PM
21 (Jury out at 2:32 p.m.) 02:32PM
22 THE COURT: We're outside the presence -- you 02:33PM
23 want to step outside then. 02:33PM
24 THE WITNESS: Sure. 02:33PM
25 THE COURT: Thank you, Agent. 02:33PM

1 THE WITNESS: Yes, Your Honor. 02:33PM

2 THE COURT: This is Exhibit -- is it 430? 02:33PM

3 MS. M. MILLER: Yes, Your Honor. 02:33PM

4 THE COURT: All right. First of all, once the 02:33PM
5 witness gets out, question is what's your proffer on this, why 02:33PM
6 are you trying to bring this in? 02:33PM

7 MS. M. MILLER: Because Mr. Martin, in 02:33PM
8 questioning the witness, asked the witness repeatedly whether 02:33PM
9 he was aware of the fact that there was any litigation, either 02:33PM
10 pending or that had occurred, between the tuna boat companies 02:33PM
11 and Hansen Helicopters, arguing that the tuna boat companies 02:33PM
12 always got what they paid for, what they wanted, there wasn't 02:33PM
13 any litigation, any conflict or anything like this. 02:33PM

14 What this shows, Your Honor, is that there were 02:33PM
15 discussions between the tuna boat companies, and the 02:33PM
16 Defendants as well as litigation -- potential litigation 02:34PM
17 between individual families of persons who were killed or 02:34PM
18 injured by the Defendants. And I have a number of exhibits, 02:34PM
19 some of which have already been admitted into evidence, and 02:34PM
20 this particular one, to show that there were these issues that 02:34PM
21 did arise, that rise to the level of prospective litigation. 02:34PM

22 THE COURT: Who's Teresa? 02:34PM

23 MS. M. MILLER: She's somebody -- she's someone 02:34PM
24 who we see in another e-mail who's a representative of one of 02:34PM
25 the tuna boat companies. 02:34PM

1 THE COURT: Is she like an agent to the company? 02:34PM

2 MS. M. MILLER: She is. 02:34PM

3 THE COURT: Mm-hmm. All right. Yes, Mr. Martin? 02:34PM

4 MR. MARTIN: First of all, Your Honor, if I'm 02:34PM

5 going to be quoted, it should be accurate. My question was, 02:34PM

6 are you aware of any tuna boat company that has sued? That 02:34PM

7 doesn't mean pending litigation or possible litigation. That 02:34PM

8 has sued Hansen Helicopters relating to any of these 02:34PM

9 contracts? And the answer was "not yet." 02:35PM

10 THE COURT: Right, I recall that question. 02:35PM

11 MR. MARTIN: I did not ask about possible or 02:35PM

12 pending or anything -- as a matter of fact, I excluded it from 02:35PM

13 my question because I made him correct it. I said -- I 02:35PM

14 specifically said, any litigation that has occurred. 02:35PM

15 Secondly -- 02:35PM

16 THE COURT: Okay, so the Court would agree with 02:35PM

17 you, I do recall that part. Okay. Next one? Next -- 02:35PM

18 MR. MARTIN: Secondly, Your Honor, this is -- 02:35PM

19 it's far outside the scope of my cross-examination, and it is 02:35PM

20 a letter to Marvin Reed from somebody who we have no clue who 02:35PM

21 it is. The government may represent it's one of the tuna boat 02:35PM

22 companies or something, but all I have is -- all I have is 02:35PM

23 TWH-- TWTHSU at Fong K-U-O, dot com, dot TV. And I don't know 02:35PM

24 who that is, Judge. And so I think that we don't have a 02:36PM

25 foundation for this exhibit to come in. Even though it's 02:36PM

1 beyond the scope of cross-examination, and it's hearsay to Jon
2 Walker.

3 MS. M. MILLER: Your Honor, this goes directly to
4 counter the cross-examination because Mr. Martin and
5 Mr. McConwell both asked this witness questions about his
6 knowledge of and basis for the criminal fraud underlying the
7 wire fraud counts.

8 Part of the fraud, as Your Honor knows, is the
9 fact that the airmen were not certificated. As a result of
10 that, plus the fact that the aircraft were not airworthy,
11 regardless of what was represented, there were claims, there
12 were injuries, there were deaths.

13 This goes to the Defendants' knowledge because
14 this is a co-defendant and the e-mail address is for Fong Kuo,
15 K-U-O, which is all over the billings and collections list
16 that the Defendants produced to us in response to a grand jury
17 subpoena, as Your Honor has seen, Exhibit 725 and 726. This
18 is a direct communication between the tuna boat company
19 representative and the Defendants regarding an incident. And
20 some of the other e-mails that the jury should see, Your
21 Honor, is the Defendants trying to conceal accidents,
22 incidences, claims, issues, between themselves and the tuna
23 boat companies. This goes directly to Mr. Martin opening the
24 door by leaving an impression with the jury that the tuna boat
25 companies got what they bargained for.

1 As a matter of fact, Mr. McConwell even said,
2 isn't it true the tuna boat companies got what they bargained
3 for, they were satisfied? The essential element of this
4 contract was just to produce a helicopter? Didn't matter if
5 it was a tin can or not.

6 Well, you know what, Your Honor, that's just not
7 true. This goes to the weight, not the admissibility. It's
8 relevant to show that there were conflicts between the tuna
9 boat companies and the Defendants and that there were
10 numerous, numerous issues and problems. This isn't a
11 situation where the tuna boat companies weren't victims of the
12 Defendants' fraud.

13 THE COURT: All right. Anything further,
14 Counsels? Defense.

15 MR. MARTIN: Your Honor, other than the fact that
16 my question specifically dealt with, "lawsuits."

17 THE COURT: All right. Any -- Ms. McConwell?

18 MS. MCCONWELL: Yeah. Hansen Helicopters is not
19 a party to Counts 99 through 110 --

20 THE COURT: I'm sorry. Can you get on the mic?
21 I can't hear you.

22 MS. MCCONWELL: Hansen Helicopters is not named
23 in the indictment, 99 through 110, so to any extent that she
24 wants to assign this to Hansen Helicopters, it's inappropriate
25 for the admission against Hansen Helicopters. Additionally,

1 just by the plain text of this e-mail, which I would submit is
2 hearsay, it doesn't show that there is a conflict. There is a
3 question that's being broached.

4 MS. M. MILLER: It shows knowledge on the part of
5 the Defendants regardless of --

6 THE COURT: All right. The Court will -- the
7 Court has, you know, listened to the evidence and so the
8 question really is -- is it beyond the scope of cross. At
9 this point the Court finds it is beyond the scope of cross,
10 and will sustain the objection.

11 MS. M. MILLER: Okay.

12 THE COURT: On this particular letter at this
13 time. Yeah.

14 MS. M. MILLER: Sure.

15 THE COURT: Okay. Next, we'll call in the jury
16 then.

17 MS. M. MILLER: Yes.

18 THE COURT: Is there anything else that we
19 should look at --

20 MS. M. MILLER: Well, there is, while the jury is
21 out.

22 THE COURT: Why don't we look at it now.

23 MS. M. MILLER: The next exhibit that I intend to
24 use with this witness is G-1, which has already been entered
25 into evidence.

1 THE COURT: Oh, it's already been admitted? 02:39PM

2 MS. M. MILLER: It's already been admitted into 02:39PM
3 evidence. 02:39PM

4 THE COURT: All right. Then you can use that. 02:39PM
5 Move on to the next. 02:39PM

6 MS. M. MILLER: And 421, which has already been 02:39PM
7 admitted into evidence as well. Okay, that's it. 02:39PM

8 THE COURT: So is there anything that has not 02:39PM
9 been that you want in -- 02:39PM

10 MS. M. MILLER: Yes. 02:39PM

11 THE COURT: That we should look at right now 02:39PM
12 because our COVID bench apparatus is not working. 02:39PM

13 MR. MARTIN: What was the other, 421? 02:39PM

14 MS. M. MILLER: Yeah. 02:39PM

15 THE COURT: What were the next two that you were 02:39PM
16 going to admit? 02:39PM

17 MS. M. MILLER: So I'm going to what was not 02:39PM
18 already admitted into evidence. 02:39PM

19 THE COURT: Not already, not admitted. 02:39PM

20 MR. MARTIN: Well, I want to look at it to make 02:39PM
21 sure that the one she's having aren't beyond the scope. 02:39PM

22 THE COURT: What are the next two that have been 02:39PM
23 admitted, you believe? 02:39PM

24 MS. M. MILLER: Exhibit 1 and Exhibit 421. 02:39PM

25 THE COURT: Okay. Hold on. Give him one second 02:40PM

1 to look at 1 and 421. Then tell us when you're done,
2 Counsels, Defense. Then when you're done, go to the next one,
3 the ones that are not admitted yet. We might as well get
4 through this, let's do this now at this bench conference. She
5 said 1 and 421 have been admitted.

6 MS. M. MILLER: They have been.

7 MS. MCCONWELL: Oh, oh, they have been admitted,
8 but we need to see if they are beyond the scope.

9 MS. M. MILLER: Oh, boy.

10 MR. MARTIN: Your Honor, my objection to --

11 THE COURT: Wait. Pull up.

12 MR. MARTIN: 421.

13 THE COURT: Pull 421 up, please. And what's the
14 proffer on 421? Let me just hear the proffer. You should
15 hear the proffer before you object. 421.

16 MS. MCCONWELL: I've got it on my screen.

17 MS. M. MILLER: We'll pull it up. So, Your
18 Honor, this is another situation where the -- there is
19 communications back and forth between, in this case, a
20 representative of the family of a pilot who was killed and the
21 Defendants paying for the movement of his body to his home in
22 order to be buried. If you see on the bottom of the second
23 page, Your Honor, that's where the communications start, and
24 there is a discussion regarding compensation.

25 And if you also remember, Your Honor, Mr. Reed

1 testified that the Defendants paid \$100,000 to this family to
2 avoid any lawsuit being filed. And the Government's
3 contention is that if money is paid to tuna boat companies or
4 to families of pilots and others to avoid lawsuits being
5 filed, that is relevant, that is within the scope of the
6 cross-examination where Mr. Martin asked about whether any
7 lawsuits had been filed. Concealing information, paying
8 people off so that lawsuits aren't filed is very relevant to
9 the issue of fraud. This is a fraud case. Concealment is
10 always something that is included in a fraud.

11 MR. MARTIN: May I respond, Your Honor?

12 THE COURT: Okay. Good argument.

13 MR. MARTIN: My question was, have any tuna boat
14 companies filed any litigation against us because of these
15 contracts. It had nothing to do with death of pilots or
16 settlements or payment of things relating to a pilot or an
17 airman. It had -- the question was very specific, had any
18 tuna boat companies sued us because of failing to comply with
19 contracts. This doesn't go to that issue.

20 THE COURT: I got it. Any -- Ms. McConwell?

21 MS. MCCONWELL: We join. Also, it's not relevant
22 to Hansen Helicopters, we're not -- we're not in any of the
23 counts.

24 THE COURT: Bring the mic closer to you and then
25 just pick it up.

1 MS. MCCONWELL: I'll do that. I just don't like 02:42PM
2 to bump it. And it was an insurance payment, not some kind of 02:42PM
3 a settlement, buy out, pay off or buy out as Ms. Miller is 02:43PM
4 representing. 02:43PM

5 THE COURT: All right. Ms. Miller, you may 02:43PM
6 proceed. 02:43PM

7 MS. M. MILLER: Yes, Your Honor, it's in 02:43PM
8 conjunction with the testimony that we heard from Mr. Reed 02:43PM
9 that in addition to paying the body to be sent back, that this 02:43PM
10 company paid Mr. Santos family \$100,000 in compensation for 02:43PM
11 his death. Again, to avoid litigation. 02:43PM

12 THE COURT: All right. The Court will sustain 02:43PM
13 the objection because it was very narrow. You know, you've 02:43PM
14 already got this in. You could make the argument. 02:43PM

15 MS. M. MILLER: Sure. 02:43PM

16 THE COURT: However -- we could talk about that 02:43PM
17 later. 02:43PM

18 MS. M. MILLER: Yes. 02:43PM

19 THE COURT: The Court will sustain the objection, 02:43PM
20 and disregard -- disallow this to come in. 02:43PM

21 MR. MARTIN: We need to look at Exhibit No. 1, 02:43PM
22 Your Honor. 02:43PM

23 THE COURT: Oh, okay. One? 02:43PM

24 MR. MARTIN: That's -- 02:43PM

25 THE COURT: Bring it up, one. How many exhibits 02:43PM

1 do you have so we could let the jurors know, there's some
2 smokers in there, I'm pretty sure they want to smoke.

3 MS. M. MILLER: Well, I think this is only
4 related to the litigation questions that Mr. Martin asked.
5 The rest of the questions all include exhibits that have
6 already been admitted into evidence except for one that has
7 not been admitted into evidence.

8 THE COURT: So how many more? You have one more
9 exhibit you're going to talk about this after this?

10 MS. M. MILLER: Not related to this issue.

11 THE COURT: Oh, okay. All right. Let's make --
12 can you make this bigger, and so what's your proffer on this,
13 this G --

14 MS. M. MILLER: So this one is a communication
15 between Jon Walker and Rufus Crowe where he's talking about
16 the fishing companies being aware of the latest fatality.
17 Also in this e-mail, there is a discussion about losing four
18 contracts. That's the reason why, again, related to this
19 litigation question and issue.

20 MR. Martin: The subject matter of the e-mail,
21 Your Honor, is where the Pacific Ranger ran into a helicopter
22 that was trying to disconnect a buoy. The spotter was killed
23 in that, and there was no litigation out of that, Your Honor.
24 And so the reference to that , I mean, a helicopter getting
25 hit by a boat does not have anything to do with a tuna boat

1 company suing us because -- and there is no litigation. You 02:45PM
2 heard the witness. There's been no litigation yet. 02:45PM

3 MS. M. MILLER: Your Honor, this has to do with 02:45PM
4 Mr. McConwell's discussion in cross-examination, where he was 02:45PM
5 saying didn't the tuna boat companies get what they wanted, 02:45PM
6 weren't the parts -- essential parts of the lease fulfilled, 02:45PM
7 didn't the tuna boat companies, you know, weren't they 02:45PM
8 satisfied because at least they got an airplane, whether it 02:45PM
9 was airworthy or not, same thing with the airman, whether they 02:45PM
10 were qualified or not. This contradicts directly the 02:45PM
11 contention that the tuna boat companies had no problems and no 02:45PM
12 issues with Hansen Helicopters. 02:45PM

13 THE COURT: All right. So this has nothing to do 02:45PM
14 with the liability question? 02:45PM

15 MS. M. MILLER: No, this has to do with the more 02:45PM
16 general question. 02:45PM

17 MR. MARTIN: Read the e-mail, Your Honor, it 02:45PM
18 deals directly with liability, and it doesn't have anything to 02:45PM
19 do with airmen or anything else. It's talking about buoys. 02:46PM
20 This is stealing buoys, boats are having their spotters steal 02:46PM
21 buoys. 02:46PM

22 MS. M. MILLER: Sorry, I didn't mean to do that, 02:46PM
23 Your Honor. It's more than just that. It has to do with the 02:46PM
24 latest fatality, it has to do with insurance limits, insurance 02:46PM
25 is an essential element of the contract that we're going to 02:46PM

1 talk about it. It has to do with the fact that four contracts
2 were lost, and Mr. McConwell specifically said, do you have
3 any information that any contracts were lost? This directly
4 goes to this idea that the defense has put into the minds of
5 the jurors that the tuna boat companies were completely
6 satisfied with what they got, so therefore, there cannot be
7 wire fraud.

8 THE COURT: All right. The Court will -- let me
9 just say, okay, so here's the problem, you have a judge up
10 here who knows some of the evidence, not all of it, only the
11 evidence that's brought before me. You all have the luxury
12 and the opportunity to know whatever these four contracts are,
13 these liability limits and so forth.

14 So the Court was going to sustain the objection
15 because you're going to have to go deeper. This refers to so
16 many other things. I will sustain the objection as for
17 purposes of this redirect. And if you can tie it in to your
18 closing, tie it in your closing.

19 MS. M. MILLER: Yeah, and I also have two more
20 witnesses, Your Honor, these issues are very relevant to the
21 safety, culture, or lack thereof, of Hansen Helicopters, so
22 they'll come in --

23 THE COURT: Court.

24 MS. M. MILLER: Absolutely.

25 THE COURT: Court will sustain the objection.

1 All right. Wait now. Which exhibit does he not know -- they
2 not know?

3 MS. M. MILLER: So, Your Honor, you had admitted
4 portions of Exhibit 3003, but not all of 3003.

5 THE COURT: Okay.

6 MS. M. MILLER: And there was one page of 3003
7 that was not admitted. And now I think it is relevant, and
8 should be admitted. And that is the one that is not yet
9 admitted that I will use, if, Your Honor, allows in my
10 redirect examination, and specifically, that is page 3003-15.

11 THE COURT: Okay.

12 MS. M. MILLER: And, Ms. Miller, if you could
13 pull that up for the Court, please. It's in Trial Director as
14 3003, not 3003-A, which is the truncated version that has been
15 admitted.

16 MR. MARTIN: What was the number again?

17 MS. M. MILLER: 3003-15. And if you can hone in,
18 Ms. Miller, on the paragraph that starts, "The seller here
19 hereby warrants to the buyer." If you could pull that part
20 out. So, Your Honor, what this document is --

21 THE COURT: So it's an insurance policy?

22 MS. M. MILLER: No, no, no. This is a sales
23 agreement.

24 THE COURT: Okay.

25 MS. M. MILLER: Between Jan's Helicopters, which

1 is one of the Vanuatu companies in Exhibit 829, and we heard,
2 for two and a half hours, Mr. Martin talk about the Vanuatu
3 companies in Exhibit 829.

4 Jan's is represented in this buyer-seller
5 agreement as owning all of the helicopters that are listed in
6 that agreement to be sold to Pacific Spotters Corporation.
7 And we just heard Mr. Martin go on for hours about how each of
8 these individual Vanuatu companies, isn't it true this company
9 was the registered owner, and this company was a registered
10 owner, and this company was a registered owner.

11 Well, if that's true, then how can Jan's sell all
12 of these helicopters when Jan's is not the, according to the
13 FAA, the business record of the FAA, the registered owner of
14 all of these helicopters?

15 So it goes directly to contradict the
16 representation that Mr. Martin is trying to leave the jury
17 with, which is, that each individual helicopter was an asset
18 of each individual Vanuatu company, which isn't true.
19 Further, Your Honor --

20 THE COURT: I'm sorry. So each of the
21 helicopters are not -- you're trying to say that it rebuts the
22 representation that the helicopters of the individual
23 corporations that were identified in cross-examination are not
24 individual assets of those corporations?

25 MS. M. MILLER: Yes, Your Honor.

1 THE COURT: But rather they are what? 02:50PM

2 MS. M. MILLER: But rather, they are assets of 02:50PM

3 Jan's Helicopters. If Jan's Helicopters is selling all of 02:50PM

4 these helicopters to Pacific Spotters Corporation as is 02:50PM

5 represented in this document. It contradicts what Mr. -- 02:50PM

6 THE COURT: Okay, so I'm sorry, so where does it 02:50PM

7 say that the seller owns all of those -- 02:51PM

8 MS. M. MILLER: The seller -- 02:51PM

9 THE COURT: Owns all the helicopters? 02:51PM

10 MS. M. MILLER: So right here. 02:51PM

11 THE COURT: How do I know that? 02:51PM

12 MS. M. MILLER: Yeah. So if we go to page 14 02:51PM

13 first, Ms. Miller, if you can go to 14 where it lists the 02:51PM

14 helicopters. 02:51PM

15 THE COURT: Okay. I see. 02:51PM

16 MS. M. MILLER: So page 14, could you make that 02:51PM

17 bigger, Ms. Miller? 02:51PM

18 MS. MCCONWELL: Your Honor, page 14 is not 02:51PM

19 admitted into evidence, and this is -- 02:51PM

20 THE COURT: That's right. She knows -- 02:51PM

21 MS. M. MILLER: I'm answering the Court's 02:51PM

22 question about why it's relevant. 02:51PM

23 THE COURT: Yeah. She wants to try to put this 02:51PM

24 in. 02:51PM

25 MS. M. MILLER: Yes. Can you highlight that, Ms. 02:51PM

1 Miller, 14?

02:51PM

2 THE COURT: She indicated this was not in.

02:51PM

3 MS. M. MILLER: So what we see here, Jan's
4 Helicopters existing under Philippines law, which by the way
5 Jan's was represented -- see this contradicts what Mr. Martin
6 was trying to present to the jury. Jan's was represented to
7 the jury as being a Vanuatu company. Here we have Jan's
8 representing itself as the Philippine company with an address
9 in the Philippines, seller and the owner.

02:51PM

02:51PM

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02:51PM

10 THE COURT: So first of all, it's going to rebut
11 the Vanuatu address.

02:51PM

02:51PM

12 MS. M. MILLER: Yes, yes, yes. The owner of the
13 following aircraft, then we see the RPC numbers of all of
14 these helicopters with the aircraft serial numbers, and, Ms.
15 Miller, if you could go up so the Judge can see all of them.
16 Then, Your Honor --

02:52PM

02:52PM

02:52PM

02:52PM

02:52PM

17 THE COURT: And those are the particular RP,
18 which stands for Philippines.

02:52PM

02:52PM

19 MS. M. MILLER: Yes. And when you look at the
20 serial numbers, that correlates to the U.S. N-registration
21 number. As a matter of fact, Ms. Miller, can you pull up
22 Exhibit D-120 -- no; yes, 123 that Mr. McConwell moved into
23 evidence, thank you, Mr. McConwell, identified for us the
24 correlation between the Philippine registration numbers and
25 the U.S. registration numbers along with the serial number.

02:52PM

02:52PM

02:52PM

02:52PM

02:52PM

02:52PM

02:52PM

1 So we'll pull that up because that ties it all together for
2 the jury.

3 THE COURT: Okay, so these -- just for the
4 record, so these helicopter -- RP helicopter registration
5 numbers --

6 MS. M. MILLER: Yes, Your Honor.

7 THE COURT: On GE-3003-14, are some of the ones
8 that were represented in the answers by the last witness? On
9 cross-examination.

10 MS. M. MILLER: Yes, Your Honor.

11 THE COURT: And were discussed as having been
12 assets of various corporations, not necessarily Jan's
13 corporation.

14 MS. M. MILLER: Correct. As a matter of fact,
15 Mr. Martin painstakingly went through each individual one to
16 say, so this was owned by Limey, and this was owned by Dave's,
17 and this was opened by Heli Fish, and this was an asset of,
18 and this was an asset of. And now, Your Honor, if you look at
19 what Mr. McConwell introduced, Exhibit 123, you could see RPC
20 numbers, you could see serial numbers, you could also see
21 previous registration numbers here. And what you're going to
22 see, Your Honor, is that this is a moving target for the
23 Defendants.

24 THE COURT: Well, let me just ask you, is it
25 possible, I mean, that -- maybe Mr. Martin and Ms. McConwell

1 will say that -- that it was owned by certain of those other
2 corporations, non-Jan's corporations, previous to when Jan's
3 sold it pursuant to this bill of sale?

4 MS. M. MILLER: But there is no paperwork
5 evidence saying that.

6 MR. MARTIN: May I respond, Your Honor?

7 MS. M. MILLER: And here's the issue --

8 THE COURT: Hold on. Wait, wait, wait. Let me
9 let her answer.

10 MS. M. MILLER: This is what is really important:
11 Number one, there is no paperwork; number two, Mr. McConwell
12 also entered into evidence those pages from the GEO report
13 that discussed just how companies like Hansen and Mr. Walker
14 can defraud the registry by having this complex schedule of
15 different companies owning different things. Your Honor, it's
16 all smoke and mirrors. I want to show you something here.

17 THE COURT: No, no, no. I remember the GEO
18 report.

19 MS. M. MILLER: Absolutely. And when you look at
20 123, there is something that's very important here.

21 THE COURT: When I look at what now?

22 MS. M. MILLER: Exhibit 123 that Mr. McConwell
23 entered into evidence. On the right-hand side, do you see
24 N1DQ?

25 THE COURT: Yeah.

1 MS. M. MILLER: Do you see N1DQ? I just
2 highlighted it.

3 THE COURT: Yeah.

4 MS. M. MILLER: RPC6911, that is the helicopter
5 that was just in an accident two days ago.

6 MR. MARTIN: What's that got to do with this?

7 MS. M. MILLER: That has everything to do with
8 it, Your Honor, everything to do with it because N1DQ is the
9 same helicopter that Mr. Bustos testified about. He said it
10 was in an accident while he was flying it and Jon Walker
11 personally flew out there to do the repairs because the
12 repairs were difficult to do.

13 Mr. Bustos moves on, this is one of the
14 helicopters that the Defendants claim -- look at this letter,
15 it's saying reserve these registration numbers for Pacific
16 Spotters Corporation, which is yet another shell corporation,
17 which was the subject of the argument we had previously too,
18 Your Honor. And RPC6911, just two days ago, crashed and a
19 helicopter pilot was killed and the mechanics that were flying
20 in the helicopter for a test run were seriously injured.

21 So Mr. Martin brought up N1DQ to this jury on
22 this cross-examination and he said, isn't N1DQ registered with
23 the FAA and owned by this Vanuatu company? And so, Your
24 Honor, this is absolutely proper redirect to show the jury
25 just what a complex web of deceit has been created by the

Redirect - Khamvongsa

1 Defendants, the way they move these helicopters from company
2 to company depending on who they're trying to defraud.

3 THE COURT: Okay.

4 MS. M. MILLER: If they're trying to do fraud the
5 Philippine authorities, here Pacific Spotters owns all of
6 these helicopters, we removed them properly from the U.S.
7 registry, now we want to put them into the Philippine
8 registry; otherwise, it's Jan's Helicopters; otherwise it's
9 Wilma's Flight Services.

10 You're going to see, Your Honor, because it's
11 already been entered into evidence a balance sheet that shows
12 that Wilma's Flight Service owns all of the helicopters. A
13 balance sheet for the same year that Mr. Martin was showing
14 this jury that the helicopters were owned by all of these
15 different Vanuatu companies. It is critical for the jury to
16 be able to see the fraud.

17 THE COURT: All right.

18 MR. MARTIN: May I respond, Your Honor?

19 THE COURT: Yes.

20 MR. MARTIN: First, I want to talk about the
21 smoke and mirror. I'm sure everyone can quote every question
22 I asked about every one of the "FAA business records" that I
23 was cross-examining about. I only cross-examined about FAA
24 business records.

25 "Isn't it true, Agent, that Exhibit 366-4 is a

1 record kept in the normal course of business of the Federal
2 Aviation Administration? Yes. Isn't it true, Agent
3 Khamvongsa, that this record is, relates to an N-number?
4 That's true, relating to the FAA registry. Isn't it true,
5 sir, that according to the FAA registry, this particular
6 N-number helicopter has a serial number? Isn't it true, sir,
7 that pursuant to the business record kept by the Federal
8 Aviation Administration, this is registered as a corporation?
9 Yes, sir. Isn't it true, Agent Khamvongsa, that this -- that
10 the FAA registry shows that it is -- the registered owner is
11 this particular corporation? Doesn't the FAA register
12 indicate that the location of this corporation is in Vanuatu."

13 Every question I asked, Your Honor, dealt
14 specifically with the business records that are kept in the
15 normal course of business relating to the FAA? If she wants
16 to redirect the witness about the business records of the FAA,
17 I can't object, but if she is going to go beyond the scope of
18 what I asked question -- because that's what I asked. My
19 questions were very, very specific, and very specific for an
20 intentional purpose.

21 THE COURT: What about the last question though
22 about the asset?

23 MR. MARTIN: I said, "Is the helicopter that is
24 identified by the registry as this number, is that an asset?"

25 THE COURT: Well, you said is that an asset of

1 that corporation though, of that corporation that it's
2 registered to.

3 MR. MARTIN: I asked if it was an asset.

4 THE COURT: No, but I -- I know, but it was in
5 the context I thought --

6 MR. MARTIN: According to the FAA.

7 THE COURT: Right. According to the business
8 records, and of course he was also very particular, this
9 Agent, and he was saying, okay, so if you're saying is this
10 what the business record demonstrates, or establishes then he
11 was saying; yes, you're right, it is an asset and it's
12 representative of an asset of that corporate registrant owner.

13 MR. MARTIN: And every one of these has an
14 expiration date and some of these aren't there anymore, Your
15 Honor. And the records that they're trying to bring in, many
16 of them, for example, the one on Jan's Air Service, I can't
17 read the exhibit number. I think it's Exhibit 3003-14, is
18 dated November of 2018. The records I'm referring to come
19 from an e-mail that is in -- found in 366, Exhibit, pardon me,
20 Exhibit 366 that is dated May of 2016. So this is the FAA
21 registry as of May of 2016.

22 THE COURT: I'm sorry, okay, so wait, wait. So
23 the FAA registry that you queried the agent on was dated
24 May 2016?

25 MR. MARTIN: Yes, an e-mail from that day.

1 THE COURT: All right. Okay. But the 03:01PM
2 registration dates were consistent with that date and month, 03:01PM
3 that year and month? 03:01PM

4 MR. MARTIN: They are -- the e-mail that these 03:01PM
5 came from, Your Honor, was dated, I believe, Wednesday 03:01PM
6 October 5th, 2016, -- 03:01PM

7 THE COURT: No, okay. Let me -- strike that. 03:01PM
8 The ownership dates and the registration dates -- 03:01PM

9 MR. MARTIN: They had to be before that. 03:01PM

10 THE COURT: Right, so it's before May 2016. 03:01PM

11 MR. MARTIN: And my questions though -- 03:01PM

12 THE COURT: Wait, wait. So if they're before 03:01PM
13 May 2016, then there is some expiration some other time. As I 03:01PM
14 understand, there is an expiration date. 03:01PM

15 MS. M. MILLER: None of them expired until 2020, 03:01PM
16 Your Honor. This is 2018. Can we not -- we're being -- we 03:01PM
17 are so splitting the hairs here that the -- we're at risk the 03:02PM
18 government is not having a fair trial at this point. Let me 03:02PM
19 tell you why, Your Honor. 03:02PM

20 MR. MARTIN: We don't need to go into the 03:02PM
21 government not having a fair -- 03:02PM

22 MS. M. MILLER: Who gives the FAA the information 03:02PM
23 that he read from for two and a half hours? Oh, I'll tell you 03:02PM
24 who, Jon Walker. Jon Walker files with the FAA a registration 03:02PM
25 -- 03:02PM

1 THE COURT: Listen. Okay. Wait. Okay. You 03:02PM
2 guys don't -- 03:02PM

3 MS. M. MILLER: A registration -- 03:02PM

4 THE COURT: You guys don't have to sit and argue, 03:02PM
5 save your arguments for the jury. I get that. We're just 03:02PM
6 focusing on the objection. All I want to do is, we'll find 03:02PM
7 out -- 03:02PM

8 MS. M. MILLER: Yes. 03:02PM

9 THE COURT: Are the dates inconsistent? 03:02PM

10 MS. M. MILLER: The dates are -- 03:02PM

11 THE COURT: For example, if somebody could be an 03:02PM
12 owner, a prior owner, and then the subsequent owner was Jan's 03:02PM
13 Helicopters, let's just assume that, then of course Jan's 03:02PM
14 Helicopter Services has the -- is the owner. 03:02PM

15 MS. M. MILLER: Right. 03:02PM

16 THE COURT: But if, in fact, these other 03:02PM
17 companies are not really the owners, but it was always Jan's 03:02PM
18 Helicopters, then that's a different story. 03:03PM

19 MS. M. MILLER: Well, Your Honor, the point is 03:03PM
20 this. 03:03PM

21 THE COURT: So I'm just looking at the dates, and 03:03PM
22 I think that you guys are flushing it out. 03:03PM

23 MS. M. MILLER: The point is this, the Defendants 03:03PM
24 had registered these helicopters using the name of different 03:03PM
25 Vanuatu companies as the owners, and then identifying the 03:03PM

1 mailing address on the registrations as somewhere in Vanuatu.
2 Jon Walker signed most of them indicating that that was
3 correct, and when he signed those, he actually certified that
4 a U.S. corporation was registering the aircraft.

5 As a matter of fact, let's pull up 752, because
6 Mr. McConwell -- Mr. Martin, actually, specifically brought
7 the witness's attention to a particular registration of
8 aircraft N9068F, and that was Exhibit 752-, was it 52? Yeah.
9 And Mr. Martin asked this witness about this particular
10 aircraft with this particular serial number, and we're going
11 to pull that up for you because this goes right to the heart
12 of this argument, Your Honor.

13 THE COURT: Okay.

14 MS. M. MILLER: Okay. So what we see here, is we
15 see a registration of this particular aircraft with this
16 particular serial number N9068F with serial number 210293S, as
17 in Sam. And Mr. Martin talked about this. So this was the
18 original aircraft registration. And we see Whirlwide
19 Helicopters with a Guam address registering this helicopter
20 with Jon Walker as president and, Your Honor, you may or may
21 not remember this because it was a while ago, but the woman
22 from the FAA registry -- Ms. Miller, if you can hone in on the
23 certification part of this here. She brought to the attention
24 of the Court and the jury that when Jon Walker signed this, he
25 was certifying under penalty of perjury, that the company that

1 was registering it or the individual that was registering it 03:05PM
2 was a U.S. citizen. Look at the certification. We talked 03:05PM
3 about this before. The aircraft is not registered under the 03:05PM
4 laws of any foreign country. We have numerous aircraft in 03:05PM
5 this case that were dual-registered both in the Philippines 03:05PM
6 and in the FAA at the same time, and identified as being owned 03:05PM
7 by different companies at the same time. All of the 03:05PM
8 companies, by the way, owned by Jon Walker. Then it also says 03:05PM
9 that the legal evidence of ownership has been filed with the 03:05PM
10 FAA and it says, if you look at, number one, the above 03:06PM
11 aircraft is owned by the undersigned applicant who is a 03:06PM
12 citizen, including corporations, of the United States. If he 03:06PM
13 was registering as a foreign corporation, which is what 03:06PM
14 Mr. Martin is trying to assert to this jury, then that would 03:06PM
15 have to be marked in that box. And additionally, if we go 03:06PM
16 up -- 03:06PM

17 THE COURT: Marked as -- 03:06PM

18 MS. M. MILLER: Right, are you a corporation or 03:06PM
19 non-citizen corporation. You would have to check non-citizen 03:06PM
20 corporation. Three hundred seventeen times, Jon Walker 03:06PM
21 registered as a U.S. citizen or U.S. corporation. 03:06PM

22 And Ms. Miller, go to the next registration where 03:06PM
23 Whirlwide now all of a sudden has a Vanuatu address. Because 03:06PM
24 it goes from Guam to Vanuatu, to Guam to Vanuatu. As a matter 03:06PM
25 of fact, Your Honor, you just saw when Mr. Martin was 03:06PM

1 cross-examining the IRS agent, Limey Air Services, isn't that
2 listed as a Vanuatu company? We had an argument in front of
3 you just yesterday, where you saw that in the bank records for
4 2939, Limey Air is identified as a U.S. corporation in Guam.
5 And that it is still today a U.S. corporation in Guam.
6 They're using the Vanuatu address in these registrations for
7 these corporations to defraud the FAA. And if they're not
8 using the Vanuatu addresses to defraud the FAA, then they're
9 still defrauding the FAA because they had to identify
10 themselves as a foreign corporation, but they didn't. Because
11 Mr. Martin is right, saying that you have an FAA certification
12 has value. When you're trying to sell a company because you
13 know you're under investigation, you want the person buying
14 the company to believe that your aircraft had value. Look at
15 all of these aircraft registered with the FAA. Look at these
16 valuable, valuable aircraft. In Exhibit 366, which he spent
17 two hours on, are the financial statements of Wilma's and
18 Hansen Helicopters. Wilma's identifies all of the aircraft as
19 being owned by Wilma's.

20 THE COURT: All right. Well, the Court is going
21 -- go ahead; yes, Mr. Martin.

22 MR. MARTIN: Your Honor, first of all, the
23 government knows that there is a Limey corporation registered
24 in Vanuatu, if you will pull up Government Exhibit 784, that
25 is the Constitution of Limey Air from -- Services, that is in

1 Vanuatu. And for them to represent this is a U.S.

2 corporation, that's what their own exhibit, it hadn't been
3 admitted, but it's in their exhibit.

4 THE COURT: Okay. Well, rather than get into the
5 Limey stuff, let's focus on this -- let's go back to the
6 original objection and the particular, Exhibit 3000 what? Can
7 you go back together it? The one that was not --

8 MS. M. MILLER: 3003-15?

9 THE COURT: Okay. Pull that up one more time.
10 That's really what you're focusing in on. 15. And then the
11 other page after that?

12 MS. M. MILLER: The page before that was 14.

13 THE COURT: 14. You're trying to get in 14?

14 MS. M. MILLER: I'm actually trying to get in 15
15 because of the representation that Jan's Air makes on 15 that
16 the aircraft that are being sold to Pacific Spotters
17 Corporation, if you go to page 15, and, Ms. Miller, if you go
18 to the middle of that page.

19 THE COURT: All right. So you're just asking for
20 3003-15?

21 MS. M. MILLER: Yes.

22 THE COURT: That's what you want to bring in?

23 MS. M. MILLER: Yes. So what I'm trying to focus
24 on here for the jury, Your Honor, is this part, "The aircraft
25 is sold in an as-is basis without any warranties whatsoever as

1 to the merchantability, fitness for any particular purpose,
2 durability, design, suitability, especially that it was
3 disclosed that the majority of the aircraft are considered to
4 be scrap, non-functional and/or have expired and lost
5 certificates of registration and airworthiness." That's the
6 part I want to bring in, because of Mr. Martin's insistence on
7 talking about assets, assets, assets, assets, the assets of
8 these Vanuatu companies. These assets are these helicopters.
9 This is the representation that they're making within their
10 own company about these assets. They're scrap, they're not
11 airworthy, they have no value, so how can they be an asset.
12 And what's also very important, Your Honor, is in 2018, we
13 have contracts that are covered by these very aircraft in 2018
14 that are representing to the tuna boat companies, that these
15 aircraft are airworthy. And here you have an admission by a
16 Defendant, 801D2E, that these aircraft, the majority of the
17 aircraft are scrap, non-functional, and/or have no
18 certificates of registration and no airworthiness
19 certificates.

20 Additionally, four of the aircraft that he
21 identified in his cross-examination, were on the MD
22 Helicopters destroyed list before 2016 and yet, that's what
23 the Defendants are trying to sell, and that's what they're
24 using. It is critical for the jury to hear this. This is
25 relevant. It has been disclosed. It's admissible. It's not

1 hearsay. And it's an admission under 801D2E. It's within the
2 timeframe of the fraud, and it is directly within the scope of
3 a cross-examination that went on for two hours to try to leave
4 this jury with the wrong impression.

5 THE COURT: Okay. I've heard the arguments from
6 everybody. With regard to 3003-15, the Court understands that
7 the prosecution is trying to proffer these list of exhibits --
8 these list of helicopters as not being really assets, I guess
9 -- as defined, what assets are, but rather what is indicated
10 here in this particular highlighted portion that she's talked
11 about. And in addition, the proffer is that they're not
12 assets of the individual alleged shell corporations that have
13 been identified during cross-examination, but rather are
14 assets, if you will, of Jan's corporation. And so, so, to
15 that extent, the Court does not find it's beyond the scope of
16 cross-examination, and will allow it. And allow the exhibit
17 to be brought forward to the agent.

18 The question as to whether it's hearsay or
19 nonhearsay, the Court finds, at this point, it's nonhearsay.
20 And it's -- because it's an admission by a party opponent, so
21 the Court will allow question to go.

22 Yes, Ms. McConwell?

23 MS. MCCONWELL: Your Honor, I think it's
24 important for you to go back and look also -- well, first of
25 all, this is beyond 2955, which is the third amended exhibit

1 list. But if the Court is going to be entertaining it, the
2 Court needs to look at 3003-14, which was up prior. Because
3 this is not the Jan's Helicopter that is on the Vanuatu list.
4 This is Jan's Helicopter which is a corporation formed under
5 the Philippine laws. This is not Jan's Helicopters that's a
6 Vanuatu corporation. And it says so directly on the bill of
7 sale, and Ms. Miller can smirk all she wants --

8 MS. M. MILLER: I'm smirking because of the lies.
9 It's constant. Now we --

10 MR. MARTIN: Wait.

11 THE COURT: Counsel, wait. Let her finish. Let
12 her finish. Be respectful.

13 MS. M. MILLER: Where is the paperwork showing
14 that Jan's --

15 THE COURT: Hold on. Wait just a minute. Listen
16 -- first of all, I can't understand two people talking at the
17 same -- now three people, three persons, and neither can my
18 court reporter.

19 MS. M. MILLER: Sorry, Veronica.

20 THE COURT: Yeah. And then secondly, well,
21 anyway, go ahead. Yes, Ms. McConwell. Proceed.

22 MS. MCCONWELL: Either if Mr. Leon Guerrero would
23 put up or Ms. Miller whoever has -- is driving, or let me
24 drive, it's 3003-14. If you look in the recital portion of
25 the bill of sale, the Jan's Helicopter Service, Inc. existing

1 under Philippines laws and having its principal place in the
2 Philippines, is -- the corporation that is involved in this
3 transaction. It is not --

4 THE COURT: I'm sorry, so -- excuse me?

5 MS. MCCONWELL: 3003-14.

6 THE COURT: Can you pull that up, somebody?

7 MS. MCCONWELL: Yeah. If I can drive, I'll pull
8 it up.

9 THE COURT: Let's have prosecutors pull it up
10 since they got it. They can go straight to 14, okay. And
11 make that a little bigger please. So Jan's Helicopters
12 Service, Inc. it says there under Philippine laws.

13 MS. MCCONWELL: So right here.

14 THE COURT: At the top.

15 MS. MCCONWELL: Right there under Philippine
16 laws, so this is the Jan's Helicopters Service, Inc. that is a
17 corporation that's organized under the laws of the
18 Philippines. It is not a Jan's Helicopters that has been
19 organized in Vanuatu. They're separate organizations. And
20 Ms. Miller is continually trying to merge them together like
21 she's done with Wilma's, like she's done with Limey's.

22 These are separate and distinct corporations that
23 she's representing to you the reason it should be in is
24 because that Jan's Helicopters, the Jan's Helicopters in here
25 or on the next page is the Vanuatu corporation, but if you

1 look at the document --

03:15PM

2 THE COURT: So I'm sorry, are you saying there is
3 two different Jan's Helicopters?

03:15PM

03:15PM

4 MS. MCCONWELL: Yes, that's exactly what I'm
5 saying.

03:15PM

03:15PM

6 THE COURT: One corporation that's established
7 under Philippine law, and the other under Vanuatu laws?

03:15PM

03:15PM

8 MS. MCCONWELL: Yes, ma'am. That's exactly what
9 I'm saying.

03:16PM

03:16PM

10 THE COURT: That really, that to the extent that
11 she's trying to rebut the testimony under direct examination
12 with Mr. Martin, on this agent, it's the wrong Jan's
13 corporation?

03:16PM

03:16PM

03:16PM

03:16PM

14 MS. MCCONWELL: That's correct.

03:16PM

15 THE COURT: That's what you're saying?

03:16PM

16 MS. MCCONWELL: That's what I'm saying.

03:16PM

17 THE COURT: Okay, I got it. I got the gist.

03:16PM

18 MS. M. MILLER: Absolutely ready to respond

03:16PM

19 because, you know, I'll give Ms. McConwell the benefit of the
20 doubt and assume maybe she just doesn't -- hasn't studied the
21 evidence as much, but this just --

03:16PM

03:16PM

03:16PM

22 THE COURT: Well, I don't think that -- wait,
23 wait.

03:16PM

03:16PM

24 MS. M. MILLER: Let me tell you why.

03:16PM

25 THE COURT: That wasn't nice, Ms. -- excuse me,

03:16PM

1 Ms. -- wait, wait, okay.

03:16PM

2 MS. M. MILLER: I want you to look --

03:16PM

3 THE COURT: Hold on. Hold on.

03:16PM

4 MS. M. MILLER: Ms. Miller, can you bring up so
5 the Judge can see very clearly --

03:16PM

6 THE COURT: Excuse me, Ms. Miller, that wasn't
7 nice to say. She hasn't said --

03:16PM

8 MS. M. MILLER: Well, Your Honor, you know, it is
9 just so frustrating to sit here and to have Counsel of record
10 who is an officer of the Court say that these are two
11 completely different --

03:16PM

12 THE COURT: She just said it.

03:17PM

13 MS. M. MILLER: I know, okay.

03:17PM

14 THE COURT: But let me just say.

03:17PM

15 MS. M. MILLER: Wow. Okay. I'm going to show
16 you why that is absolutely false.

03:17PM

17 THE COURT: Well, my point is, Counsel, Ms.
18 Miller.

03:17PM

19 MS. M. MILLER: Sorry.

03:17PM

20 THE COURT: Let me get your attention, please.

03:17PM

21 So first of all, you guys don't need -- you all don't need to
22 insult each other. I mean, really. All you have to say is
23 you know what, you can say what -- you can think what you feel
24 about somebody, but really, if the evidence shows otherwise,
25 if the evidence is in your favor, all have you to say is, you

03:17PM

03:17PM

03:17PM

03:17PM

03:17PM

1 know, that's an incredulous argument, I mean, the evidence
2 shows this.

3 MS. M. MILLER: Yes.

4 THE COURT: Without saying, hey, did she study
5 the record. Come on.

6 MS. M. MILLER: Well, it is an incredulous
7 argument, and I'm going to show you.

8 THE COURT: I think you do need to apologize.

9 MS. M. MILLER: I'm sorry I said that, Laura. It
10 is an incredulous argument, and I'm going to show you why.

11 MR. MCCONWELL: May I clarify something, Your
12 Honor? That argument, just to clarify.

13 THE COURT: I think so; yes.

14 MR. MCCONWELL: It appears to me that these
15 helicopter -- first of all, 6911 is not on the list. That's
16 the one that crashed a couple days ago. It appears to me
17 these are the helicopters that are registered by Jan's
18 Helicopter Service in the Philippines that had the flag with
19 the government over the fees in 2014, and I don't remember the
20 exact dates, but in the early time, they pulled the
21 certificates, you had somebody from the Philippines testify,
22 and this was all administrative issue, wasn't anything about
23 airworthiness, but those were pulled. I haven't had time to
24 match up the letters, but I suspect those are the 17 or so
25 that lost their airworthiness certificates and their

1 registration. So that's a totally different deal, and they're
2 probably not -- 1DQ is not on the list. It's been
3 deregistered anyway and now re-registered in the Philippines,
4 and there is a process that the Philippines --

5 THE COURT: Are you talking --

6 MS. M. MILLER: Your Honor --

7 MR. MCCONWELL: Let me finish.

8 THE COURT: Hold on.

9 MR. MCCONWELL: It will become relevant to you at
10 some point. But the point is, this is something totally
11 different that has been represented to you, and I don't know
12 how to --

13 THE COURT: Okay, listen, if you're trying -- it
14 sounds like you're talking about the incident that happened
15 two days ago with that other helicopter, is that what you're
16 talking about?

17 MR. MCCONWELL: Two days ago, but that's one that
18 wasn't on the Philippine registry here.

19 THE COURT: Right, but for me to, for me right
20 now, the issue is, if you will, let's just focus on the
21 objection. And then that other issue could very well be a
22 distraction for everybody.

23 MS. M. MILLER: So if I could share my screen
24 with Your Honor and Counsel?

25 THE COURT: Yeah.

1 MS. M. MILLER: I could show you why -- 03:19PM

2 THE COURT: So the only issue is she says they're 03:19PM

3 two separate corporations, you say they're one in the same. 03:19PM

4 MS. M. MILLER: Yes, they are. 03:19PM

5 THE COURT: So just show us the evidence. 03:19PM

6 MS. M. MILLER: Yes, Your Honor. 03:19PM

7 THE COURT: As they say in Missouri, show me. 03:19PM

8 MS. M. MILLER: Exactly. So if you -- 03:19PM

9 THE COURT: I should know that, I went to law 03:19PM
10 school there. Go ahead. 03:19PM

11 MS. M. MILLER: You'll be able to see this in a 03:19PM
12 moment. 03:19PM

13 THE COURT: All right. 03:19PM

14 MS. M. MILLER: So, Your Honor, this is a chart 03:19PM
15 that was created to show that Jan's Helicopters is Jan's 03:19PM
16 Helicopters, period. Doesn't matter if they used a Vanuatu 03:20PM
17 address, the Philippines. Just like Limey Air, he mentioned 03:20PM
18 the charter for Limey Air that was in 2002, not in 2016, '17, 03:20PM
19 '18, which all says it is a U.S. corporation in Guam. So 03:20PM
20 which is it? I don't know. I guess they get to choose. But 03:20PM
21 I'm not able to show you this unfortunately. 03:20PM

22 MS. S. MILLER: I could do it from over there. 03:20PM
23 If you want to stand over there. 03:20PM

24 MS. M. MILLER: Wait a minute. I think I just 03:20PM
25 connected it now. There we go. So, Your Honor, if you look 03:20PM

1 at RPC4901, which is in Exhibit 3003.

03:20PM

2 THE COURT: And that's been admitted.

03:20PM

3 MS. M. MILLER: No. It was page 14 of 3003 that
4 Ms. McConwell was saying, Your Honor, this is not the same
5 Jan's, this is a different Jan's.

03:20PM

03:20PM

03:20PM

6 THE COURT: How do I know -- wait just a minute,
7 can I ask you a question?

03:20PM

03:20PM

8 MS. M. MILLER: Yes.

03:20PM

9 THE COURT: How do I know --

03:20PM

10 MS. M. MILLER: I have the exhibit numbers here.

03:20PM

11 THE COURT: No, I know, but how do I know -- all
12 I see here is Jan's Helicopter assets.

03:21PM

03:21PM

13 MS. M. MILLER: I'm going to tell you.

03:21PM

14 THE COURT: But how do I know Jan's is one
15 corporation?

03:21PM

03:21PM

16 MS. M. MILLER: I am going to tell you, Your
17 Honor.

03:21PM

03:21PM

18 THE COURT: Okay.

03:21PM

19 MS. M. MILLER: 3003 is one document, but then
20 there is also 355, which identifies Jan's and identifies
21 RPC4901, which is on --

03:21PM

03:21PM

03:21PM

22 THE COURT: Okay. Hold on. Hold on. Wait,
23 wait, wait.

03:21PM

03:21PM

24 MS. MCCONWELL: I want to know what exhibit this
25 is.

03:21PM

03:21PM

1 MS. M. MILLER: This is a demonstrative aid. It 03:21PM
2 is not an exhibit. 03:21PM
3 MS. MCCONWELL: This is a new summary chart, Your 03:21PM
4 Honor. 03:21PM
5 MS. M. MILLER: This isn't a summary chart. Your 03:21PM
6 Honor asked how do we know that Jan's is Jan's, and I'm 03:21PM
7 showing you. 03:21PM
8 MS. MCCONWELL: It's a chart. 03:21PM
9 MS. M. MILLER: This is all the exhibits that 03:21PM
10 have been entered into evidence already. 03:21PM
11 THE COURT: Let me just ask, okay. This sounds 03:21PM
12 like -- I can see this, it looks like it talks about what's 03:21PM
13 the registration number of the helicopters and -- 03:21PM
14 MS. M. MILLER: Correct, and -- 03:21PM
15 THE COURT: -- accidents and serial number. 03:21PM
16 MS. M. MILLER: -- and the serial number. 03:21PM
17 THE COURT: And then the name of the registered 03:21PM
18 owner. 03:21PM
19 MS. M. MILLER: And the N-number, and then the 03:21PM
20 name of the registered owner. So Bean Bag, which you've 03:21PM
21 heard, unless they're going to now say Bean Bag is not a 03:22PM
22 Vanuatu company, maybe that's also a Philippine company. Bean 03:22PM
23 Bag, right here -- 03:22PM
24 THE COURT: Yes, we've heard. 03:22PM
25 MS. M. MILLER: -- is the registered owner of the 03:22PM

1 helicopter that is on the list in 3003 that is identified with
2 both RPC4901 and the serial number 810338S. That helicopter
3 was registered in the U.S. as N501F Harry?

4 MR. MCCONWELL: Hotel.

5 MS. M. MILLER: Hotel, thank you. And so you see
6 that there. So, Your Honor, what we did was we correlated all
7 of the helicopters that were identified in the Exhibit 3003,
8 which by the way, was an exhibit that was seized from the
9 Defendants' computer, from Hansen Helicopters' computer
10 identifying all of these helicopters, and then we also have
11 Government's Exhibit 355 which correlates it. So we've
12 correlated all of those RPC numbers with serial numbers with
13 N-numbers, if they were ever registered with the FAA and with
14 other identifying information including these Bean Bag
15 helicopters, Ohara Helicopters, Hansen Northern Helicopters.
16 These are all companies that you heard Mr. Martin talking
17 about as having assets --

18 THE COURT: I see. Okay.

19 MS. M. MILLER: Yes. Whirlwide, Heli Fish.

20 THE COURT: Okay, so let me just say, I can
21 streamline this or separate this. I understand how you --
22 which I think is very good, this is easy to read --
23 understand, that I can see how you're saying, okay, so when
24 there were sales, these sales were linked back to certain
25 numbers, which link back to certain shell registered owners.

1 MS. M. MILLER: Yes. 03:24PM

2 THE COURT: But in the end, it was Jan's 03:24PM
3 Helicopter sales. 03:24PM

4 MS. M. MILLER: Yes. 03:24PM

5 THE COURT: Alleged. All right. I get that. 03:24PM
6 But how do I know that -- the issue is, is Jan's Helicopters 03:24PM
7 -- what kind of corporation is it, that's what -- they're 03:24PM
8 trying to say, well, they're two different corporations, so 03:24PM
9 you got the wrong one. 03:24PM

10 MS. M. MILLER: I'm not saying they're two 03:24PM
11 different corporations. 03:24PM

12 THE COURT: No, no, no. I know. They're 03:24PM
13 saying -- how do I know that Jan's corporation is -- 03:24PM

14 MS. M. MILLER: They're making that assertion. 03:24PM

15 THE COURT: No, okay. Strike that. How do you 03:24PM
16 know that Jan's corporation is a -- according to you, Jan's 03:24PM
17 corporation is a -- well, I'm sorry -- 03:24PM

18 MS. M. MILLER: No, no, no. 03:24PM

19 THE COURT: The exhibit that you were bringing 03:24PM
20 out in 3003-15. 03:24PM

21 MS. M. MILLER: Yes. 03:24PM

22 THE COURT: Says Jan's corporation is registered 03:24PM
23 under the Philippines laws. 03:24PM

24 MS. M. MILLER: No. 03:24PM

25 THE COURT: Right? 03:24PM

1 MS. M. MILLER: That's what the Defendants are 03:24PM
2 saying. The government isn't saying that. 03:24PM
3 THE COURT: Oh, I see. Okay. Wait. 03:24PM
4 MS. M. MILLER: The Defendants are saying that 03:24PM
5 because it's their documents. 03:24PM
6 THE COURT: No, no, no. My point -- okay, let me 03:24PM
7 just go back. So the exhibit -- 03:25PM
8 MS. M. MILLER: Yes. 03:25PM
9 THE COURT: -- said that. 03:25PM
10 MS. M. MILLER: Yes. 03:25PM
11 THE COURT: So the exhibit said that. And was 03:25PM
12 that Exhibit 3003-15, that was -- 03:25PM
13 MS. MCCONWELL: 14. 03:25PM
14 THE COURT: -- that was found from the 03:25PM
15 Defendants' corporation. 03:25PM
16 MS. M. MILLER: Turner Kapp signs it. Turner 03:25PM
17 Kapp signs that document. 03:25PM
18 THE COURT: Can you pull up 3003-15 for one 03:25PM
19 second. 03:25PM
20 MS. M. MILLER: Can you pull 3003 back up and 03:25PM
21 then also -- 03:25PM
22 THE COURT: So wait, wait. Hold on. Let me just 03:25PM
23 finish my thought process, I just got to understand this. All 03:25PM
24 right. So once I get it, I get it, I'll get it. So 3003-15, 03:25PM
25 it says that the Jan's corporation was established under the 03:25PM

1 laws of Philippines, the Defense Counsel is saying, well, you 03:25PM
2 got the wrong -- there is -- the rebuttal is actually wrong 03:25PM
3 because Jan's corporation that is being represented really is 03:25PM
4 a Vanuatu one, that's what they're saying. I mean, that's the 03:25PM
5 argument. 03:25PM

6 MS. M. MILLER: No, they're not saying that. As 03:25PM
7 a matter of fact -- 03:25PM

8 THE COURT: They just said there is two separate 03:25PM
9 corporations. You've got the wrong one. 03:26PM

10 MS. M. MILLER: No, Ms. McConwell -- 03:26PM

11 THE COURT: At least that's what I thought -- 03:26PM

12 MS. M. MILLER: She's not saying that. She's not 03:26PM
13 saying. 03:26PM

14 THE COURT: Ms. McConwell, did you say that? 03:26PM

15 MS. MCCONWELL: (Nodded head.) 03:26PM

16 THE COURT: You said, I thought you said they got 03:26PM
17 the wrong -- she did say that. Okay. 03:26PM

18 MR. MARTIN: Judge, could we get a copy of the 03:26PM
19 demonstrative exhibit that they're showing you so we can 03:26PM
20 respond to them? The one they just showed you, I've never 03:26PM
21 seen before. I don't think we have it, and I don't think it's 03:26PM
22 fair for them to drop it on you, and we've never seen it. 03:26PM

23 MS. M. MILLER: I'm not dropping anything on you, 03:26PM
24 I'm answering your question about how will you know 03:26PM
25 it's relevant. 03:26PM

1 MR. MARTIN: Can you give me the demonstrative 03:26PM
2 exhibit, please? 03:26PM
3 THE COURT: Can you give him a copy of that one 03:26PM
4 that's -- 03:26PM
5 MS. M. MILLER: Sure. Absolutely. 03:26PM
6 MR. MARTIN: We've got to get them all. 03:26PM
7 MS. M. MILLER: Absolutely. 03:26PM
8 THE COURT: Why don't you give it to them so they 03:26PM
9 can look at it first before we get into this. 03:26PM
10 MS. M. MILLER: Well, there is something else I 03:26PM
11 want to bring up to your attention. 03:26PM
12 THE COURT: Hold on. Just let them at least look 03:26PM
13 at it. I think I got. 03:26PM
14 MS. M. MILLER: Okay. 03:26PM
15 THE COURT: But, I guess, my -- she did -- that 03:26PM
16 is her argument though. 03:26PM
17 MS. M. MILLER: But, no, but one thing you don't 03:26PM
18 get, and I'm worried about that, and that's this, Your 03:26PM
19 Honor -- 03:26PM
20 THE COURT: I don't think. I think I got. I 03:26PM
21 think I know what you are going to say. 03:26PM
22 MS. M. MILLER: No, I mean you got what's been 03:26PM
23 said. 03:26PM
24 THE COURT: No, no, I got what's been -- not what 03:26PM
25 is being shown to me. Now, whether it's true or not is a 03:27PM

1 different story.

03:27PM

2 MS. M. MILLER: Yes.

03:27PM

3 THE COURT: I get that. But my question is, so
4 this bill of sale says this -- this bill of sale under 3003-14
5 indicates that the Jan's is registered under the Philippine
6 laws, right?

03:27PM

03:27PM

03:27PM

03:27PM

7 MS. M. MILLER: Yes.

03:27PM

8 THE COURT: Okay.

03:27PM

9 MS. MCCONWELL: Yes.

03:27PM

10 THE COURT: Okay, so I got that.

03:27PM

11 MS. M. MILLER: Yes.

03:27PM

12 THE COURT: And the Defense Counsel is saying,
13 look, there's two different companies here, there is not a
14 true rebuttal here.

03:27PM

03:27PM

03:27PM

15 MS. M. MILLER: Where is the evidence of the
16 other Jan's company, 829 which is also something that they
17 produced where they have Jan's as a Vanuatu company? Don't
18 you see what they're doing?

03:27PM

03:27PM

03:27PM

03:27PM

19 THE COURT: No, I understand what you're saying.
20 829 is what now?

03:27PM

03:27PM

21 MS. M. MILLER: 829.

03:27PM

22 THE COURT: Oh, 829 is that?

03:27PM

23 MS. M. MILLER: 829.

03:27PM

24 THE COURT: No, no, 829, I thought you said A-29.

03:27PM

25 MS. M. MILLER: No, 829 was produced by the

03:27PM

1 Defendants, both of these Counsel, in a motion that they filed 03:27PM
2 with this Court, and they represented to the Court here's the 03:28PM
3 structure of the company, okay. They keep wanting to say the 03:28PM
4 Government's Exhibit 829. This isn't our Exhibit 829. I 03:28PM
5 don't believe anything that they have to say about their 03:28PM
6 corporate entities or their structures. To me that's not 03:28PM
7 issue; the issue is the helicopters. Because the helicopters 03:28PM
8 are what they registered with the FAA and once they did, they 03:28PM
9 were required to comply with the requirements of the FAA. If 03:28PM
10 they want to screw around and say, you know Jan's is a 03:28PM
11 Philippines corporation in one instance, but it's really a 03:28PM
12 Vanuatu corporation in another instance. 03:28PM

13 The government has never seen a Vanuatu charter 03:28PM
14 for Jan's. Do they have one? I don't know. We've never seen 03:28PM
15 it. The only thing we've seen for Jan's, Your Honor, if we go 03:28PM
16 back to Exhibit 355, as you recall, the Philippine 03:28PM
17 authorities -- 03:28PM

18 THE COURT: Okay. I got it. 03:29PM

19 MS. M. MILLER: -- involuntarily deregistered and 03:29PM
20 delisted all of those helicopters for their failure to comply 03:29PM
21 with the Philippine rules. Remember that was admitted into 03:29PM
22 that evidence. And Harry Lero, who is their representative in 03:29PM
23 the Philippines for Jan's, accepted that delisting and that 03:29PM
24 deregistration. And then Harry Lero is also the gentleman who 03:29PM
25 is an agent of the Defendants who accepted \$18,000 a year in 03:29PM

1 bribes to keep the Philippine authorities at bay while they 03:29PM
2 were able to fly those helicopters for almost ten years 03:29PM
3 without any oversight without any review or anything. All of 03:29PM
4 that has gotten into evidence as well. 03:29PM

5 My point is this, doesn't matter if Jan's is a 03:29PM
6 Philippine corporation legitimately or a Vanuatu corporation. 03:29PM
7 What matters is they're identifying helicopters that are 03:29PM
8 subject of this indictment. 03:29PM

9 THE COURT: Okay. I got it. I got it. 03:29PM

10 MS. M. MILLER: So helicopters can be traced to 03:29PM
11 the indictment. 03:29PM

12 THE COURT: Okay. So I got it. I think you 03:29PM
13 pounded it through pretty well. 03:30PM

14 All right. Yes, Ms. McConwell? 03:30PM

15 MS. MCCONWELL: I respectfully disagree with Ms. 03:30PM
16 Miller's argument. 03:30PM

17 THE COURT: Okay. You have to get on to the mic 03:30PM
18 then, please. You respectfully disagree? 03:30PM

19 MS. MCCONWELL: I respectfully disagree. If you 03:30PM
20 look at the 3003 was a document that Ms. Miller offered after 03:30PM
21 2955, which was the end of the third amended exhibit list, 03:30PM
22 which we've talked about ad nauseam that they're not to come 03:30PM
23 in beyond that. And several exhibits -- 03:30PM

24 THE COURT: Well, the only way that an exhibit -- 03:30PM
25 let me just say this, the only way an exhibit can come in 03:30PM

1 that's beyond the exhibit list is if it's true rebuttal or if
2 there is new evidence that needs to be brought in, they can
3 ask for that, but go ahead.

4 MS. MCCONWELL: Portions of the 3003 were not
5 rebuttal. They were things that they brought in on the direct
6 examination of Mr. Marty, and they couldn't bring in these
7 additional documents. But if the Court is going to look at
8 the 3003, 3003-14 was a document that the Philippines
9 certified that was in their records and it shows that Jan's
10 Helicopters, Inc. that is a portion, that is a party to that
11 contract is a Philippine corporation.

12 THE COURT: Okay, so let me just say this, all
13 right. Fine, that's fine. So if the evidence shows -- let me
14 just say this, if the evidence shows that the Philippines
15 government registry office, says that Jan's was established
16 under the Philippine laws, then okay, so you got it, that's
17 your argument, you could argue that. And if, if the 892, I
18 guess that exhibit there, says that Jan's is a Vanuatu
19 corporation, I mean, you could make your argument, really.
20 You guys can both make your argument. That the prosecutor is
21 going to say they're one in the same, doesn't matter. She's
22 obviously saying that she feels, well, you know what she feels
23 about fraud.

24 MS. MCCONWELL: And then beyond that, I believe
25 she conflates the dates. So the e-mail that had or the FAA

1 documents from the FAA registry are what were attached to 03:32PM
2 Government's Exhibit 366, which Mr. Martin went through, was 03:32PM
3 an e-mail that was sent in late 2016. And those show all of 03:32PM
4 those registry. The aircraft that she wants to talk about 03:32PM
5 that were deregistered in the Philippines, that occurred I 03:32PM
6 believe in 2014. And the evidence was that \$17,000 was paid 03:32PM
7 because the Philippines charged all of the aircraft owner for 03:32PM
8 all of the inspections, which the United States doesn't do. 03:32PM
9 And for a number of aircraft they had, that's what the cost 03:32PM
10 was. 03:32PM

11 THE COURT: Okay. But let me just say, let's 03:32PM
12 just focus on -- the focus is on the particular request. So 03:32PM
13 the prosecution is asking for 3003-15. 03:33PM

14 MS. MCCONWELL: Right. 03:33PM

15 THE COURT: And you're asking for -- well, if 03:33PM
16 you're going to do that -- 03:33PM

17 MS. MCCONWELL: I don't think 3003-15 should be 03:33PM
18 admitted. It's not even in, it's not the same timeframe. 03:33PM
19 It's a document that's two years later, it's dated 2018 and 03:33PM
20 what Mr. Martin went through was in 2016. 03:33PM

21 MR. MARTIN: August. August. 03:33PM

22 THE COURT: What he went through were records -- 03:33PM

23 MS. MCCONWELL: FAA records. 03:33PM

24 THE COURT: -- demonstrating registration of all 03:33PM
25 those companies. 03:33PM

1 MS. MCCONWELL: Right. Effective 2016. 03:33PM

2 THE COURT: Okay. But does it -- let me ask you 03:33PM
3 this, does it matter though with the -- I guess, the 03:33PM
4 registration though, there would be an expiration, most 03:33PM
5 governments have expirations on vehicles and aircraft so that 03:33PM
6 they can keep getting money. Is that not true? 03:33PM

7 MS. MCCONWELL: I think it does matter. 03:33PM

8 THE COURT: No, no, no, but is that not true? 03:33PM
9 There would be an expiration. Wait, wait, and if that's true, 03:33PM
10 then the prosecutor has represented to the Court that the 03:33PM
11 expiration was not until 2020. 03:34PM

12 MS. M. MILLER: Correct. 03:34PM

13 THE COURT: And that the particular sale, bill of 03:34PM
14 sale, is identified as 2018. 03:34PM

15 MS. M. MILLER: That's right. 03:34PM

16 MS. MCCONWELL: Well, I don't know that we have 03:34PM
17 all of the specific -- all of the specific documents. 03:34PM

18 THE COURT: So you want to review them? 03:34PM

19 MS. MCCONWELL: Related to that -- 03:34PM

20 THE COURT: Well, okay. That's her theory, and 03:34PM
21 that's what she says she has the evidence. 03:34PM

22 MS. MCCONWELL: We do know that a number of 03:34PM
23 aircraft were deregistered in 2020 because it was requested to 03:34PM
24 try to make sure that they were all cleaned up. Because -- 03:34PM
25 and I think Mr. Walker -- those are admitted into evidence of 03:34PM

1 all of the requests for deregistration for a number of
2 aircraft. So that's for 2020.

3 THE COURT: But the purpose of this -- the
4 purpose of this redirect is to rebut the testimony that was
5 given by the witness through the cross-examination. And
6 they're trying to rehabilitate. That's what they're trying to
7 do.

8 So the Court finds, just based on what has been
9 presented -- are you saying you need more time to review it?
10 Because based on what I see, I think -- I mean, I think it's
11 right, I think she's does have an opportunity to go forward
12 and the Court will allow the questioning.

13 MR. MARTIN: Your Honor, I went through -- I
14 think.

15 THE COURT: Yeah.

16 MR. MARTIN: I went through multiple, as
17 everybody will recall.

18 THE COURT: Yes.

19 MR. MARTIN: Multiple, some of them expired in --
20 I haven't looked at them all, but they all had different
21 expiration date. I'm looking at one right now, 2017; this
22 document, 2018. I'd like to go through them and find out --

23 THE COURT: Well, why don't do you that. Since
24 this is a new document, go look through it. And to the extent
25 that, I mean, if there's 40 helicopters -- you know, I'm just

1 -- if there are 40 helicopters that were -- that he identified
2 as being registered to all of these alleged shell corporations
3 and only two of them are relevant to that bill of sale, then
4 you got a good point. She can only -- you know, so, yeah.

5 MS. M. MILLER: And it goes to the weight and not
6 the admissibility, and now we lose 24 minutes of the day.

7 THE COURT: Well, no, but they're right, I mean,
8 they do have the right to look at this. They haven't looked
9 at that what you just indicated.

10 MS. M. MILLER: Right now on the FAA registry,
11 one of these very helicopters is shown as being registered in
12 the name of Jan's in Vanuatu, right now.

13 MR. MARTIN: Well, that's great.

14 MS. M. MILLER: Right today.

15 MR. MARTIN: That's not relevant to what we're
16 talking about.

17 MS. M. MILLER: It's very relevant because it's
18 one of the ones that Mr. Martin identified with this agent to
19 say, isn't this an asset of this particular Vanuatu
20 corporation, and then we have Ms. McConwell coming up going,
21 wait a minute, Jan's is a Philippine corporation. They mixed
22 and matched which corporations they used.

23 THE COURT: So that may be true. Maybe that's
24 exactly what they believe and they know. Okay. In the end,
25 it's what the jury is going to believe, so you guys have to

1 pull to together.

03:36PM

2 MR. MARTIN: Your Honor.

03:36PM

3 THE COURT: This case will rise and fall on your
4 understanding of the evidence and your closing argument.

03:36PM

5 MS. M. MILLER: 100%.

03:37PM

6 MR. MARTIN: Your Honor, that is not what I
7 represented. I said is this aircraft in the FAA registry an
8 asset. I did not particularly refer to any specific
9 corporation, but what I would ask is --

03:37PM

03:37PM

03:37PM

03:37PM

10 MS. M. MILLER: What?

03:37PM

11 MR. MARTIN: We just saw an exhibit I haven't
12 seen before. If the government has exhibits, I'd like to see
13 them.

03:37PM

03:37PM

03:37PM

14 THE COURT: I think, no, maybe I'm wrong, but I
15 was under the impression that you were -- okay. I'll have to
16 think about that or go back and listen to that question. I
17 was under the impression that when you were going through the
18 registration requirements, and he was confirming them, that
19 when you asked the last question about the asset, it was
20 essentially, is this an asset of the corporation that is being
21 registered.

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03:37PM

22 MS. M. MILLER: Yes.

03:37PM

23 MR. MARTIN: May I say what I said, since I
24 remember, I asked it. I believe the question was, based upon
25 the records of the FAA, a particular helicopter has been

03:37PM

03:37PM

03:37PM

1 identified as X, is that helicopter an asset? 03:38PM

2 MS. M. MILLER: Of that entity. 03:38PM

3 MR. MARTIN: I didn't say that. 03:38PM

4 MS. M. MILLER: Oh, of course you did. 03:38PM

5 MR. MARTIN: Then let's replay it. 03:38PM

6 MS. M. MILLER: Let's look at -- let's have 03:38PM

7 Veronica read it back. Because I think that's going to be the 03:38PM

8 most fair way to do this because we have revisionist history 03:38PM

9 going on. Your Honor, if your memory and my memory, is 03:38PM

10 that -- 03:38PM

11 THE COURT: Let's not get Washingtonian, please. 03:38PM

12 MS. M. MILLER: But if your memory and my memory 03:38PM

13 is he was associating these helicopters with that company -- 03:38PM

14 THE COURT: Let me just say, I got the 03:38PM

15 impression, really, Mr. Martin, I got the appreciation that 03:38PM

16 you were -- I mean. 03:38PM

17 MS. M. MILLER: Why else do it? 03:38PM

18 THE COURT: No, we can do it. 03:38PM

19 MS. M. MILLER: But, no, what I'm saying is why 03:38PM

20 else would he do it unless -- 03:38PM

21 THE COURT: Let's just hear the Q and A. Yeah. 03:38PM

22 He did say -- he did put an emphasis on the first three 03:38PM

23 letters. Let's hear it. 03:38PM

24 MR. MARTIN: May I make a suggestion, Your Honor? 03:38PM

25 I don't think we are going to get done with this issue before 03:38PM

1 4, and I'm just saying that for the purposes of the jury. 03:38PM

2 THE COURT: Yeah. Right. Let me call the jury 03:39PM
3 back in, and I'm going to just excuse them. I'm going tell -- 03:39PM
4 so, Counsels, here's the deal, we have -- I have some 03:39PM
5 off-island trainers coming in for my staff, and I have to meet 03:39PM
6 with them. And my staff has asked that I, because some of the 03:39PM
7 staff wants to go to the training, which I understand. So I 03:39PM
8 -- I'm going to just recess for a few hours, and then we'll 03:39PM
9 start later tomorrow. 03:39PM

10 MS. M. MILLER: Okay. 03:39PM

11 THE COURT: All right. I'm sorry about that, but 03:39PM
12 I thought we'd be done by Wednesday. 03:39PM

13 MS. M. MILLER: Yeah, I know. Well, you know, if 03:39PM
14 we take all this time we can't -- but a couple of things, one 03:39PM
15 of the things we have talked about and just for planning 03:39PM
16 purposes because next week then becomes tricky. 03:39PM

17 THE COURT: What happened -- what's going on next 03:39PM
18 week? 03:39PM

19 MS. M. MILLER: Well, I mean we thought we'd be 03:39PM
20 done this week. I'm sure you have things planned, we have 03:39PM
21 witnesses, like Mr. Guzzetti, was supposed to leave on Sunday. 03:39PM
22 He has other obligations so we're running into an issue there, 03:39PM
23 but we're going to push through. I don't know if Saturday is 03:39PM
24 a possibility for trial, Your Honor. I also think, just for 03:40PM
25 planning purposes, one of the things that we've been 03:40PM

1 discussing is we may just finish our case with Mr. Guzzetti,
2 and not call Mr. Klang. In which case, it would be nice to
3 know if the defense is going to call any witnesses, and
4 whether we need to be ready for closings, and we still have to
5 discuss jury instructions. Yes.

6 THE COURT: Jury instructions, which you guys
7 have a copy of. I'm not so worried about us handling the
8 legal issues, working overtime in the morning or late evening.
9 The issue is getting the jurors done, and you guys getting
10 into closing argument. That's the issue. What Mr. -- all
11 right, Counsel? What do you think?

12 MR. MARTIN: Your Honor, I think if we're going
13 to do Saturday, we got to take the jury into consideration.

14 THE COURT: I'll have to ask them. I'll have to
15 ask them. I'll have Lani -- come on, bring in the jury.

16 MR. MARTIN: If we're not going to call Mr.
17 Klang --

18 (Jury in at 3:40 p.m.)

19 THE COURT: If you're not going to call him what?
20 All right. Please be seated. Thank you, ladies and
21 gentlemen, for your patience. We're going to go ahead and
22 retire for the day, recess for the day. We're still going
23 through some legal issues that come up, and I'm sorry about
24 that, but when there are legal issues that have to be decided
25 by the Court, it has to be outside your presence. So that we

1 can figure it out and see if certain evidence can come in or 03:41PM
2 not. So I would like to thank you again for your patience. 03:41PM
3 Please keep an open mind, and do not form or express any 03:41PM
4 opinion on this case until it's submitted to you at the time 03:41PM
5 of deliberation. Do not speak to anyone on any subject 03:41PM
6 connected with the trial. In addition, stay away from all 03:41PM
7 social media that may report on the case. Tomorrow I have 03:42PM
8 some off-island trainings that are coming in for my staff and 03:42PM
9 in order to let them have an opportunity to attend that 03:42PM
10 training, the Court is going to have to be in recess. I've 03:42PM
11 decided to be in recess while they're training, but we will 03:42PM
12 come back tomorrow and resume at 1:00 in the afternoon. I 03:42PM
13 apologize for that, but we'll have to do that. 03:42PM

14 In the meantime, I'll have to work on some stuff 03:42PM
15 with the lawyers here. Either today and finish up today, 03:42PM
16 we're going to be here until later today and then hopefully, 03:42PM
17 we'll finish up some stuff tomorrow. But still, we're almost 03:42PM
18 done with the testimony of this last witness, and then the 03:42PM
19 prosecution may call one or two more witnesses, and so I'm 03:42PM
20 thinking, to be perfectly honest, we thought we would be done 03:42PM
21 this week, and unfortunately, it's not happening because there 03:42PM
22 are legal issues that have arisen during the course of the 03:43PM
23 trial. And that happens in every trial. It's not just 03:43PM
24 limited to this trial. So it looks like we'll be done next 03:43PM
25 week. I'm pretty confident you guys will get the case next 03:43PM

1 week.

2 The Court has to ascertain how many more
3 witnesses will actually testify, I'll be speaking to the
4 lawyers, and then while we were -- while we had the break, the
5 attorneys were working on the jury instructions, so we will
6 have to have a jury instructions conference, I will have to
7 have that with them and have all the jury instructions
8 prepared for you.

9 So I just want you to hang in there, we still
10 need you. We don't -- I don't want to lose you because we've
11 gone this far, and the government has paid so much money just
12 to keep you here, and to make sure that -- and I appreciate
13 your dedication to staying on in the trial and listening to
14 the evidence. So I'll see you tomorrow. Please be here by no
15 later than 12:45 and we'll start at 1:00. Please rise for the
16 jury.

17 (Jury out at 3:44 p.m.)

18 THE COURT: Please be seated. Okay. So, yeah.

19 MR. MARTIN: I was going to say, Your Honor, Ms.
20 Miller indicated that they may rest after Mr. Guzzetti.

21 THE COURT: Okay. Hold on. Hold on. Hold on.

22 MR. MARTIN: I'm sorry.

23 THE COURT: Oh sorry, Veronica needed to --

24 MR. MARTIN: I'm sure she heard everything I
25 said.

1 THE COURT: Who? Veronica? Yeah. Well, she --
2 hold on.

3 MR. MARTIN: As I was saying, Your Honor, Ms.
4 Miller just indicated, possibly, that the government may rest
5 after Mr. Guzzetti.

6 THE COURT: Right.

7 MR. MARTIN: And asked, it would be nice to know
8 what our intentions were. Of course, this is the first we've
9 heard of that. We need to visit privately about that before
10 we can give an answer, but if that's truly something that's
11 going to occur, then we would like to know that too because it
12 impacts where we are going too, as far as, are we going to
13 call witnesses or not. And I don't want, hypothetically,
14 tomorrow at 3:00, let's say, they're done and suddenly we're
15 expected to call witnesses so that's the reason I make this
16 comment.

17 THE COURT: Is that -- that's the reason why
18 what?

19 MR. MARTIN: Well, I mean, if they are going to
20 end with Mr. Guzzetti, that impacts anything we do, whether we
21 call witnesses or not, so that's the reason I'm making this
22 comment.

23 THE COURT: Guzzetti has to leave by this Sunday?

24 MS. M. MILLER: Well, that was what he was
25 scheduled to do, and I'm going to have to now see if we can

1 move him back. I mean, I don't know what else to do. 03:45PM

2 THE COURT: Is he here on Guam? 03:45PM

3 MS. M. MILLER: He's here on Guam; yes. 03:45PM

4 THE COURT: Okay. 03:45PM

5 MS. M. MILLER: Pardon? 03:45PM

6 THE COURT: Yeah, I forgot to ask the jurors, are 03:45PM
7 they still out there? For Saturday, I'm not sure. 03:46PM

8 MS. M. MILLER: Yeah, that would work, if we 03:46PM
9 could do it on Saturday, then we could do that. Worse case 03:46PM
10 scenario, since Mr. Khamvongsa is here on island, we could 03:46PM
11 jump in Mr. Guzzetti and then finish him, and then get 03:46PM
12 Mr. Khamvongsa back on to finish him. 03:46PM

13 THE COURT: How much time do you need on 03:46PM
14 Guzzetti? Oh, Guzzetti was the guy -- 03:46PM

15 MS. M. MILLER: He's the accident reconstruction 03:46PM
16 expert, Your Honor, he's the gentleman that did the jury view. 03:46PM
17 So my direct examination of him will be four hours. 03:46PM

18 THE COURT: Oh, okay. That's a long time then. 03:46PM

19 MR. MARTIN: Judge, I don't mean any disrespect 03:46PM
20 to anyone, but based upon how long it's taken with every 03:46PM
21 witness we've had, I don't know how in the world, even if we 03:46PM
22 go Saturday, I mean, I would love to finish Saturday, I don't 03:46PM
23 know how in the world though that we might get done on 03:46PM
24 Saturday. 03:46PM

25 THE COURT: Yeah. 03:46PM

1 MR. MARTIN: And I'm just saying that out of 03:46PM
2 caution so that if they do need to make other arrangements, I 03:46PM
3 want them -- I'm not misrepresenting. 03:46PM

4 THE COURT: I'm going to bet that some of the 03:46PM
5 jurors already have plans. Really, I do think that. It's 03:46PM
6 kind of late for us to ask them. I mean, if I had done it 03:46PM
7 earlier in the week. They were under the impression that we 03:47PM
8 would be done this week, but you guys have a new issue popping 03:47PM
9 up every hour on the hour. 03:47PM

10 MS. M. MILLER: Yeah, I mean, it wouldn't hurt to 03:47PM
11 ask. They may have plans, but if they don't, we can then push 03:47PM
12 through. Anyway. 03:47PM

13 THE COURT: Yeah, I don't know because the way in 03:47PM
14 which this is going, even if you did four hours without 03:47PM
15 interruption, without any objections, which I doubt that will 03:47PM
16 happen. 03:47PM

17 MS. M. MILLER: Yeah, I doubt that, too. 03:47PM

18 THE COURT: I doubt that. They have the right to 03:47PM
19 present their case, and when they go -- when they 03:47PM
20 cross-examine Mr. Guzzetti, I'm sure it's going to be. 03:47PM

21 MS. M. MILLER: But, I mean, it's also -- you 03:47PM
22 know, one of the reasons why I would cut Mr. Klang is if they 03:47PM
23 were going to present a witness, because we're going to 03:47PM
24 running up against some deadline just with Counsel here. And 03:47PM
25 so that's why this whole -- we don't know if we're going to 03:47PM

1 call anybody. You know, if they really don't, that's one
2 thing you, I would think by now, after all this time, they
3 probably do know. So it would just help us with scheduling,
4 Your Honor, if we knew if they were going to call anybody.

5 THE COURT: Do you guys have an idea, or you just
6 don't want to tell her?

7 MR. MARTIN: Two things, we are considering
8 whether or not to do it, and I'll be honest with you, Your
9 Honor, I never make that final decision until the government
10 rests and I evaluate where we think we are in the case. So if
11 I say, no, we're not calling any witnesses, and then come next
12 Tuesday I'm going, well, Your Honor, you know, because they
13 did this and this and this, I got to call these three witness.
14 I don't want to misrepresent anybody. I will not make that
15 decision or Mr. Walker won't make that decision until he and I
16 talk about where we are in the case. I'm saying that out of
17 candor so everybody will understand what goes into this, it
18 doesn't just happen.

19 THE COURT: Yeah, well, I mean, I think everybody
20 says that. All Defense Counsels say that, and then they --
21 and I think they probably mean it. So that's fine. We
22 understand. So putting that aside.

23 MS. M. MILLER: Yes, the motion.

24 THE COURT: Back together this issue. So let me
25 just say I'll -- let the Defense Counsel review the

1 demonstrative exhibit. But I am inclined to allow it in. Or
2 at least let her bring it in. And under the theory -- under
3 proper rebuttal.

4 MS. M. MILLER: And just so you know, Your Honor,
5 we did give Defense Counsel 3003 and our intent to use it on
6 May 20th of 2022. So on May 20th they had that entire
7 exhibit, they had had all of that information, so this last
8 minute, you know, give me a break. I mean, they had it. They
9 had to review. Since May 20th of 2022.

10 MR. MARTIN: We're not arguing about 3003, we're
11 talk about the demonstrative exhibit you just put up. We
12 don't have it.

13 THE COURT: Oh, I know. No, the yellow one, you
14 have that one.

15 MS. M. MILLER: That's a demonstrative aid. That
16 wasn't anything we were going to introduce in trial. That was
17 an analysis we did ourselves --

18 THE COURT: Right.

19 MS. M. MILLER: -- to use for questions.

20 MR. MARTIN: They just argued with it, and I've
21 never seen it.

22 THE COURT: Just let them look at it though.

23 MS. M. MILLER: We sent it to them.

24 THE COURT: Oh, okay. Just now?

25 MR. MARTIN: When?

1 MS. M. MILLER: Right now. 03:49PM

2 THE COURT: Oh, I know. But that's what they are 03:49PM

3 saying, they never got it until after they asked. 03:49PM

4 MS. M. MILLER: Well, yeah, because we didn't 03:49PM

5 intend to use it as an exhibit at trial. It was something we 03:50PM

6 put together for ourselves to analyze the helicopters. It was 03:50PM

7 working papers. It's work product. 03:50PM

8 THE COURT: Sort of like your work product? 03:50PM

9 Okay, got it. 03:50PM

10 MS. M. MILLER: It identifies the exhibits that 03:50PM

11 have already come in. It identifies relationships. It's -- 03:50PM

12 we have a lot of those. 03:50PM

13 MR. MARTIN: I haven't received an e-mail from 03:50PM

14 the government. If they sent it, I haven't got it. 03:50PM

15 MS. M. MILLER: I sent it as soon as you said 03:50PM

16 send it. 03:50PM

17 MR. MARTIN: I still don't have it. 03:50PM

18 MS. M. MILLER: Okay. 03:50PM

19 THE COURT: All right. Well, there is something 03:50PM

20 going on with the computers. I thought it was fixed, but mine 03:50PM

21 apparently is not with the e-mails. So Microsoft is to be -- 03:50PM

22 okay, so we'll come back to this issue. Let's see. If the 03:50PM

23 jurors are coming in tomorrow, let me just ask, are there any 03:50PM

24 other exhibits that you want, with regard to rebuttal, that 03:50PM

25 they have not -- that. 03:50PM

1 MS. M. MILLER: Everything else has been 03:50PM
2 introduced, Your Honor. 03:50PM

3 THE COURT: And admitted. Introduced and 03:50PM
4 admitted? 03:50PM

5 MS. M. MILLER: And admitted. And admitted; yes. 03:50PM

6 THE COURT: So there's nothing else that has not 03:50PM
7 been admitted? 03:50PM

8 MS. M. MILLER: It has -- no. 03:50PM

9 THE COURT: Okay, good. So we're only talking 03:50PM
10 about 3000 -- 03:50PM

11 MS. M. MILLER: 3-15. 03:50PM

12 THE COURT: 15, that's it. 03:50PM

13 MS. M. MILLER: Yup. 03:51PM

14 THE COURT: All right. Got it. 03:51PM

15 MR. MARTIN: The only issue that will come up 03:51PM
16 then, Your Honor, will be whether or not it's beyond the 03:51PM
17 scope, whether or not it's relevant. 03:51PM

18 THE COURT: Right. Yeah. 03:51PM

19 MR. MARTIN: Those issues may come up during. 03:51PM

20 THE COURT: Right. Right. But really the main 03:51PM
21 issue is you wanted to be sure that you got to look at the 03:51PM
22 exhibit that she wants to redirect the witness with. All 03:51PM
23 right. Now, on this issue. 03:51PM

24 MR. MARTIN: I don't know what they are. I mean, 03:51PM
25 she's given the ones that aren't in evidence, but I don't know 03:51PM

1 what the other ones are.

03:51PM

2 MS. M. MILLER: No, and I didn't -- did I get
3 what they planned on using before they cross-examined, I mean,
4 Your Honor, come on.

03:51PM

03:51PM

03:51PM

5 THE COURT: You don't want to give it to them?

03:51PM

6 MS. M. MILLER: No, I really don't. I'm really
7 not inclined to give it to them. I'm inclined for this to go
8 the way it should go, which is if they have a legitimate
9 objection, make the objection at the time.

03:51PM

03:51PM

03:51PM

03:51PM

10 THE COURT: They don't want to give it to you,
11 they don't have to give to you.

03:51PM

03:51PM

12 MS. M. MILLER: I don't have to.

03:51PM

13 THE COURT: But if they wanted to.

03:51PM

14 MS. M. MILLER: I don't want to.

03:51PM

15 MS. MCCONWELL: Well, I'd just like the record to
16 reflect, Mr. McConwell gave his cross-examination exhibits to
17 them, even though he shouldn't have had to.

03:51PM

03:51PM

03:51PM

18 MS. M. MILLER: 130, 131, 132, 133, 134, 135,
19 136, never saw them.

03:51PM

03:52PM

20 MS. MCCONWELL: Oh, bologna, you saw them.

03:52PM

21 MS. M. MILLER: Bologna, the new ones you brought
22 in today?

03:52PM

03:52PM

23 MS. MCCONWELL: You saw those Hawaii ones, Bank
24 of Hawaii.

03:52PM

03:52PM

25 MS. M. MILLER: In what universe?

03:52PM

1 MS. MCCONWELL: Well, then you didn't read my 03:52PM
2 motion because it -- you didn't read my motion. 03:52PM

3 THE COURT: Well -- 03:52PM

4 MS. M. MILLER: What motion? As exhibits what 03:52PM
5 motion? 03:52PM

6 THE COURT: Counsels, Counsels, keep your 03:52PM
7 conversations, chats to yourselves. I don't want to be 03:52PM
8 involved in that. But, anyway. It's getting on the record. 03:52PM
9 Come on. 03:52PM

10 MS. M. MILLER: Oh, by the way, on the record, 03:52PM
11 could we go back to Mr. Martin question and the answer because 03:52PM
12 I don't think that he is stating exactly what was said. 03:52PM

13 THE COURT: So let me, in fairness to Mr. Martin, 03:52PM
14 we'll go back to the last two registration questions dealing 03:52PM
15 with assets. 03:52PM

16 Veronica, want to put that in your search? 03:54PM

17 (Whereupon the reporter read back requested 03:54PM
18 portion.) 03:54PM

19 MS. M. MILLER: There is an association to the 03:54PM
20 company that is in the registration file. Can you go back, 03:54PM
21 Ms. Veronica, please to where Mr. Martin asked about the 03:54PM
22 Vanuatu company that is in the FAA record? He starts with, Is 03:55PM
23 this a business record of the FAA? So can you find that part 03:55PM
24 where he says, Is this a business record of the FAA? And then
25 he asks about the company that is identified as the owner of

1 the helicopter.

2 MR. MARTIN: I can repeat them verbatim, Your
3 Honor, I did it several times.

4 MS. M. MILLER: I'd rather her read it back.

5 MR. MARTIN: Well, she read it back exactly the
6 way I asked it.

7 MS. M. MILLER: She read a part of it back, not
8 the whole thing.

9 THE COURT REPORTER: That was one whole question.

10 MR. MARTIN: Thank you, Veronica.

11 MS. M. MILLER: But the question preceding it.

12 MR. MARTIN: The question preceding it is --

13 MS. M. MILLER: I want it from her, not you.

14 THE COURT: We will get it from her. Let's get
15 it from the official court reporter.

16 MR. MARTIN: It had to do with the location,
17 Judge, of the company.

18 THE COURT: We'll just hear from the court
19 reporter.

20 (Whereupon the reporter read back requested
21 portion.)

22 MS. M. MILLER: So clearly, Your Honor, the
23 impression that you got and I got and I'm sure the jury got,
24 is that he's implicating that the asset is the asset of South
25 Pacific Spotters Corporation in Vanuatu. How do I know that?

03:59PM

03:59PM

03:59PM

03:59PM

03:59PM

03:59PM

03:59PM

1 Because then he went to the registration document, and then he 04:00PM
2 went to the bill of sale document. To really reenforce this 04:00PM
3 issue that on the FAA paperwork, isn't it true that that 04:00PM
4 particular helicopter is being identified as owned by a 04:00PM
5 Vanuatu corporation. Therefore, it is an asset of the Vanuatu 04:00PM
6 corporation. That is what he was trying to do, that's what he 04:00PM
7 did for two and half hours. And when I tried to stipulate to 04:00PM
8 move it along, he wouldn't. Because he wanted to keep making 04:00PM
9 those associations, and Your Honor even commented, he 04:00PM
10 commented, I want to be able to argue to the jury that my 04:00PM
11 client didn't own those aircraft, they were owned by these 04:00PM
12 Vanuatu companies. That's what he was trying to do, that's 04:00PM
13 what he did, it's appropriate impeachment of that concept to 04:00PM
14 bring in the fact that his client's companies had that 04:00PM
15 ownership all over the place. 04:00PM

16 MR. MARTIN: May I respond, Your Honor? That's 04:00PM
17 not what my question was. My question was what she said. Is 04:00PM
18 that an asset? Any impression she got, if it's right, wrong, 04:01PM
19 or indifferent, it's limited to what my question was, and my 04:01PM
20 question was, Is this an asset, is this identified? And he 04:01PM
21 said yes. 04:01PM

22 THE COURT: Yeah, well, I think -- you know what, 04:01PM
23 it might just -- it might be just something that you both can 04:01PM
24 argue. I might -- I still -- I'm going to think about it, 04:01PM
25 I'll let you know tomorrow morning or tomorrow. But I was 04:01PM

1 under the impression -- I mean, you're right, the question is 04:01PM
2 very clear, Is it just an asset, generally. I mean, you know. 04:01PM

3 MR. MARTIN: And I asked that every time, Judge, 04:01PM
4 specifically. Because -- I mean, I know exactly what I ask, 04:01PM
5 and I ask very narrow questions. 04:01PM

6 THE COURT: Right. That's understood. It's 04:01PM
7 clear that that was very narrowly queried, but it also seemed 04:01PM
8 to the Court, but, you know, that it was relating to that 04:01PM
9 particular corporation. And I'm not sure what your argument 04:01PM
10 will be with regard to all of that questioning, other than to 04:02PM
11 say that it was an asset of that corporation, not an asset of 04:02PM
12 Mr. Walker. 04:02PM

13 MS. M. MILLER: I mean, if he wants to stipulate 04:02PM
14 that he's not going to argue that, then no problem, but I have 04:02PM
15 a doubt that he will. 04:02PM

16 MR. MARTIN: I got your e-mail, thank you. No 04:02PM
17 comment, Your Honor. 04:02PM

18 THE COURT: Well, maybe you'll think about it. 04:02PM
19 Yeah, okay. Anyway, in the meantime, okay, so it could be 04:02PM
20 that, I mean, let me just say, I'm inclined to allow it in, 04:02PM
21 and that you guys can argue. You can argue away, say, hey, 04:02PM
22 the question was just really whatever the question was and he 04:02PM
23 answered the question because, you know, Mr. Agent here is 04:02PM
24 very precise. Very precise how he answers. But on the -- and 04:02PM
25 then the prosecution could say, hey, look, I mean, what other 04:02PM

1 purpose would you ask that question other than your argument. 04:03PM
2 All right, but in the meantime, to be fair to the defense, 04:03PM
3 they should have the opportunity to review what assets we're 04:03PM
4 discussing, and if they were expired or not. So I think 04:03PM
5 that's fair, and we could discuss that tomorrow. 04:03PM

6 On the issue of United States' Motion in Limine 04:03PM
7 to admit summary charts pursuant to Federal Rule of Evidence 04:03PM
8 1006, all right, so I do have a question, the government 04:03PM
9 proposed to use G-3025 and G-1242, Guzzetti's summary chart. 04:03PM
10 The first one was the aircraft registration information 04:03PM
11 related to Jon Walker; when was that chart provided? 04:03PM

12 MS. M. MILLER: That was provided during the 04:03PM
13 testimony of Ms. Hedrick, Your Honor. And I believe that was, 04:03PM
14 was that March? May. 04:03PM

15 THE COURT: All right. And then what about -- 04:04PM

16 MS. M. MILLER: And that, Your Honor, by the way, 04:04PM
17 was a document that we created in rebuttal to the assertion by 04:04PM
18 Mr. McConwell and Mr. Martin that Mr. Walker retired from the 04:04PM
19 company. 04:04PM

20 THE COURT: Okay. And then there was a first 04:04PM
21 iteration of the Guzzetti summary. 04:04PM

22 MS. M. MILLER: That was given to the defense, 04:04PM
23 his expert summary was given to them in May of 2020, his 04:04PM
24 summary charts were given to them for the first time in August 04:04PM
25 of 2020. And from that point forward, any time any change was 04:04PM

1 made to them, they were provided to the defense. Those were
2 also summary charts that we met with Ms. McConwell on and she
3 wanted some changes, and we made some changes, and so I don't
4 know what the objections to them are as it stands today. I
5 don't know. They'll have to make those objections, I guess.

6 MS. S. MILLER: And if I could just add, Your
7 Honor, those two summary charts were ones we discussed with
8 Your Honor when we had a hearing on summary charts back in
9 middle of March, I think it was maybe the 13th or the 15th.

10 THE COURT: Okay. Thank you. Yes,
11 Ms. McConwell?

12 MS. MCCONWELL: We objected to the 1242 chart,
13 which we received, first time I remember seeing it, is in
14 January, but notwithstanding that, we objected to all of
15 Mr. Guzzetti's editorial comments, and then some of the items
16 that are on in 1242 wasn't substantiated by the documents that
17 they provided, there were holes. And so it's all his sort of
18 interpretation of documents, so I think it's more appropriate
19 that if he's going to be an expert and testify, he needs to
20 testify about that and lay the foundation for it, rather than
21 just admit a chart because I don't believe that a number of
22 the items that are in what they provided are admissible in
23 this Court. That's 1242. 3025, the first time we saw that
24 was with, I believe, Ms. Hedrick, and they attempted for an
25 hour and a half, two hours to try to get that in with Ms.

1 Hedrick, and the Court would not -- did not allow that 04:06PM
2 admission of that. It's -- it wasn't provided, it wasn't on 04:06PM
3 their third amended witness list or, I mean, exhibit list. 04:06PM
4 And they just keep, after the Court rules on it, they just 04:06PM
5 continue to keep trying to get documents in. I think it is 04:06PM
6 inappropriate for them to file a motion to try to get 04:06PM
7 something in that they couldn't even get in with a live 04:06PM
8 witness because they couldn't lay the foundation for it, and 04:06PM
9 it's not on their third amended witness list, and we're in 04:06PM
10 their case in chief. 04:06PM

11 THE COURT: That's 1242. 04:06PM

12 MS. MCCONWELL: No, that was 3025. 04:06PM

13 THE COURT: I'm sorry, 3025. 04:06PM

14 MS. M. MILLER: 3025. And we did file a motion 04:06PM
15 to allow that to be admitted as a summary chart. And we 04:06PM
16 reiterate that also when the Court asked for us to identify 04:06PM
17 which witness we want to get it in on. 04:07PM

18 And if you recall, Your Honor, Ms. Hedrick did 04:07PM
19 lay the foundation for the admissibility of it because Ms. 04:07PM
20 Hedrick created it herself. Ms. Hedrick created it as records 04:07PM
21 custodian for all of the registration information. The only 04:07PM
22 reason why the Court didn't let it in is because Ms. McConwell 04:07PM
23 said she didn't have the sufficient amount of time to review 04:07PM
24 any of the underlying documents. However, those are the Blue 04:07PM
25 Ribbon records from the FAA files that have been provided 04:07PM

1 repeatedly to the defense that are available to the defense 04:07PM
2 via public record, and now we're talking months and months and 04:07PM
3 months, and it is appropriate rebuttal evidence to the 04:07PM
4 Defendants' contention at trial made for the first time that 04:07PM
5 Jon Walker either retired or stepped back from the active 04:07PM
6 management of the company. It wasn't a foundational issue, it 04:07PM
7 was a notice issue, and they have had notice now since March. 04:07PM

8 THE COURT: Okay. So with regard to the 04:07PM
9 underlying information, are there any specific objections? 04:07PM

10 MS. MCCONWELL: Well, because the admit -- the 04:08PM
11 exhibit wasn't admitted and the Court has said that nothing 04:08PM
12 beyond 2955 on their third amended witness list, or exhibit 04:08PM
13 list, was going to be admitted into evidence, I -- over break, 04:08PM
14 I did not look at all of the Blue Ribbon copies to go back and 04:08PM
15 review this particular -- this exhibit. 04:08PM

16 THE COURT: Okay, but the -- the offer of proof 04:08PM
17 is that it's really now to be rebutting. 04:08PM

18 MS. MCCONWELL: Well, then that's what they do in 04:08PM
19 their -- in their -- that's what they would do to rebut 04:08PM
20 anything that we have. It's inappropriate -- they're in their 04:08PM
21 case in chief, Your Honor, if they want to bring something in 04:08PM
22 later after we put on our case for rebuttal, then I suppose 04:08PM
23 it's fair game to use new exhibits. 04:08PM

24 MS. M. MILLER: That's not the way rebuttal 04:08PM
25 works. 04:08PM

1 MS. MCCONWELL: But they couldn't get it in with 04:08PM
2 Ms. Hedrick and it wasn't just that -- 04:08PM
3 THE COURT: Yeah, but if you don't have a case in 04:08PM
4 chief. 04:08PM
5 MS. M. MILLER: Exactly. 04:08PM
6 THE COURT: They wouldn't have opportunity to do 04:08PM
7 that. 04:08PM
8 MS. MCCONWELL: Okay. I mean -- 04:08PM
9 MS. M. MILLER: That's fine. 04:09PM
10 MS. MCCONWELL: That's correct, but this was not 04:09PM
11 on their exhibit list. 04:09PM
12 THE COURT: Right. 04:09PM
13 MS. MCCONWELL: And I was working to go through 04:09PM
14 it, we had -- there were a number of inaccuracies on it that I 04:09PM
15 addressed to the Court just when we talked about it with Ms. 04:09PM
16 Hedrick. There were a number of problems with this exhibit, 04:09PM
17 which is why, you know, Ms. Miller withdrew the exhibit and -- 04:09PM
18 MS. M. MILLER: Why didn't she file a response. 04:09PM
19 THE COURT: Only one person at time. Let me just 04:09PM
20 say, so for G-3025, I understand that. Now, if you have any 04:09PM
21 specific objections, the Court will review it. If there are 04:09PM
22 no specific objections, and because it's being used to rebut 04:09PM
23 assertions or implications that Mr. Walker either retired or 04:09PM
24 was no longer active in the fraud, then the Court is inclined 04:09PM
25 to allow it in. But if you want time to review it, let me 04:09PM

1 know by tomorrow then, and we'll hold off on my ruling.

04:09PM

2 MS. MCCONWELL: I will, and I need them to reopen
3 their Blue Ribbon copies because I'm missing, I think, one
4 copy. So I need that to be reopened so I can pull it back
5 out.

04:09PM

04:10PM

04:10PM

04:10PM

6 THE COURT: So, Samantha Miller, if you're the
7 one working with her, make sure you reopen that, G-3025, okay?

04:10PM

04:10PM

8 MS. S. MILLER: Yes, Your Honor.

04:10PM

9 THE COURT: On G-1242, let's, moving right along.
10 The summary chart here, the first iteration, let's see, was
11 provided over two years ago. What was the issue with this Ms.
12 -- did you want to review this as well?

04:10PM

04:10PM

04:10PM

04:10PM

13 MS. MCCONWELL: No, it has a number of his
14 editorial and summary comments, it's -- it has documents that
15 are not admissible in trial.

04:10PM

04:10PM

04:10PM

16 THE COURT: So but did the --

04:10PM

17 MS. MCCONWELL: So it's -- it's -- I don't know
18 who generated the chart, I don't know if Mr. Guzzetti did or
19 Counsel did, but Mr. Guzzetti is the one that's going be
20 testifying about it and so he -- so he should be the one
21 laying the foundation to bring it in. I don't believe that
22 there is foundation.

04:10PM

04:10PM

04:10PM

04:10PM

04:10PM

04:11PM

23 MS. M. MILLER: He is going to, he will be, Your
24 Honor. I'm not sure what Ms. McConwell is thinking. Of
25 course Mr. Guzzetti created the charts, we said that to them

04:11PM

04:11PM

04:11PM

1 more than two years ago. Here are Mr. Guzzetti's summary
2 charts. These are summarizing all of the underlying
3 documents. Here are all of the underlying documents. For two
4 years they've had an opportunity to review those underlying
5 documents and to raise specific objections.

6 THE COURT: All right. Hold on.

7 MS. M. MILLER: To the charts.

8 THE COURT: I got it. Let me just, I don't
9 really need to hear arguments, all I need to know is this,
10 there was G-1242 and 1247. The Court has ordered that the
11 Counsels, Ms. McConwell and Ms. Miller, I think it was
12 Samantha Miller, meet together to ascertain how they can
13 streamline this, and apparently, allegedly there is
14 modifications made pursuant to the objections by the defense.

15 MS. MCCONWELL: Not to these, not to 1242 or
16 1247, Your Honor. There were other charts that have been
17 admitted that we did agree to, they did, I mean, we don't
18 agree with them, but they did -- I mean, it was something,
19 what did she say, it goes to the weight, not the
20 admissibility. Not these -- not 1242 or 1247. We don't --
21 all of these -- I mean, this is essentially part -- this is
22 essentially part of his report and all of his comments.

23 THE COURT: So my question is --

24 MS. MCCONWELL: And then he's basing it on, and
25 he's got other information that was provided to us, some of it

1 was not provided to us. So I'm not -- I'm not clear where he
2 had his source of the information, and some of it are reports
3 that are not admissible.

4 MR. MARTIN: By the way, Your Honor, if I might
5 respond. By way of example, if the Court has Exhibit 1242 in
6 front of it, the section that says "remarks," those remarks we
7 contend are improper for him. He can testify --

8 THE COURT: I thought -- so, okay. I thought
9 Counsels met with each other and they threw out whatever was
10 surplusage, remarks, you know, whatever. Is that not true?

11 MS. S. MILLER: Your Honor, we met, and you might
12 recall during the hearing, so they never said a single
13 specific word since we had the hearing, and at the hearing
14 what their argument was, was they didn't think it was
15 accurate, and we had a whole discussion and Your Honor
16 basically held, verbally, that it goes to the weight, not the
17 admissibility. Unless they can point to specific issues in
18 the underlying documents, which we provided to them over and
19 over again, then they can cross-examine him all they want on
20 whatever commentary is in the chart.

21 THE COURT: I do recall that. I guess what
22 they're saying is, okay --

23 MS. S. MILLER: They never asked for specific
24 changes.

25 MS. MCCONWELL: Well, that's because the only

1 thing -- I mean, this --

04:13PM

2 THE COURT: Let me just say, unless you
3 specifically point out what the objection is, the Court is
4 going to allow the summary chart.

04:13PM

04:13PM

04:14PM

5 MS. MCCONWELL: Well, all of these remarks, I
6 mean, none of these remarks should be, as a threshold, none of
7 the remarks should be in it. Then they have --

04:14PM

04:14PM

04:14PM

8 THE COURT: Did you guys exclude the remarks?

04:14PM

9 MS. M. MILLER: No, that's whole point of -- this
10 is a summary chart of an accident reconstruction expert who
11 worked for the NTSB for 18 years.

04:14PM

04:14PM

04:14PM

12 THE COURT: So is -- I'm sorry, strike that.

04:14PM

13 Okay. I got that.

04:14PM

14 MS. M. MILLER: Right.

04:14PM

15 THE COURT: I know his resume.

04:14PM

16 MS. M. MILLER: Yeah, and --

04:14PM

17 THE COURT: No, no, you don't have to convince
18 me.

04:14PM

04:14PM

19 MS. M. MILLER: Those remarks --

04:14PM

20 THE COURT: My question is --

04:14PM

21 MS. M. MILLER: Okay. There's --

04:14PM

22 THE COURT: When he says remarks.

04:14PM

23 MS. M. MILLER: It's summaries of the records,
24 they're not his personal remarks.

04:14PM

04:14PM

25 THE COURT: That's what I'm asking. Is it --

04:14PM

1 MS. M. MILLER: Yes, and we already responded to 04:14PM
2 them. Summary of the records, the NTSB records, not his 04:14PM
3 personal view, it is a summary. The NTSB records alone, Your 04:14PM
4 Honor, would have been over 4,000 pages of documents relating 04:14PM
5 to all of their accidents. And so what we asked Mr. Guzzetti 04:14PM
6 to do was to summarize the facts underlying the accidents 04:14PM
7 based on the NTSB data and reports, which is exactly what he 04:15PM
8 did. And from two years ago until today, this is the same 04:15PM
9 nonsense we've been hearing, which is we don't like the fact 04:15PM
10 that he has that summary in there. 04:15PM

11 THE COURT: You guys got one more minute on this 04:15PM
12 issue because I got to go. 04:15PM

13 MS. M. MILLER: Okay. 04:15PM

14 THE COURT: 30 seconds to go. 04:15PM

15 MS. MCCONWELL: Okay, here's an example. He's 04:15PM
16 like, oh there's a YouTube video that was uploaded on 04:15PM
17 September 5th 2010. Well, but that's not -- I mean, I don't 04:15PM
18 know that that's -- I don't know that it's relevant, I don't 04:15PM
19 know that it's admissible. It's in all probability not 04:15PM
20 admissible. He's going to have to lay the foundation for 04:15PM
21 that. And the items that this has to be based on, they don't 04:15PM
22 have to be admitted, but they do need to be admissible. And 04:15PM
23 all of his remarks, I mean, that's just the thing. It's just 04:15PM
24 all his -- it's -- 04:15PM

25 MR. MARTIN: Your Honor, he can testify. What 04:15PM

1 we're concerned about is the government is trying to submit a 04:15PM
2 summary chart with his remarks. We're not -- his testimony is 04:16PM
3 his testimony and we understand that. But putting together a 04:16PM
4 document with his commentary in it, we are objecting to. 04:16PM

5 MS. MCCONWELL: And we also objected to all of 04:16PM
6 the red and the purple and all of the different colors that 04:16PM
7 they had on the chart, and they were disinclined to indicate 04:16PM
8 that. The other thing is under their damage -- 04:16PM

9 THE COURT: Well, you don't like the colors of 04:16PM
10 the chart because why? 04:16PM

11 MS. M. MILLER: We had this before, too, if you 04:16PM
12 recall. 04:16PM

13 THE COURT: I know, but why don't you like the 04:16PM
14 color charts? 04:16PM

15 MS. MCCONWELL: Um, well, I don't like the 04:16PM
16 colors. I think it draws -- I think it draws emphasis, and 04:16PM
17 under "damage," that are no terms, I mean, there aren't terms 04:16PM
18 of art for where these came from on his particular opinion. I 04:16PM
19 mean, we talked about all of that. 04:16PM

20 MS. M. MILLER: Mr. Guzzetti will testify, Your 04:16PM
21 Honor, that everything in his summary charts are just that, 04:16PM
22 summaries of information that are contained in the NTSB 04:16PM
23 reports and in the NTSB files. And the defense has had two 04:17PM
24 years now to bring to this Court, to the government's 04:17PM
25 attention, any inaccuracy, which is what is required under 04:17PM

1 Rule 1006, for two years they haven't been able to do it. 04:17PM

2 THE COURT: Yeah. Is there any specific 04:17PM
3 objection to the merits of what he's -- what he's found with 04:17PM
4 regard to the investigation? 04:17PM

5 MS. MCCONWELL: Well, a number of these, there 04:17PM
6 are not -- if we're going to talk about specifically the NTSB, 04:17PM
7 there are not investigations. There is not a reference to 04:17PM
8 one. There is not a reference to one. There is just his 04:17PM
9 editorial comment. 04:17PM

10 THE COURT: I thought he was reviewing NTSB -- 04:17PM

11 MS. M. MILLER: He did. 04:17PM

12 THE COURT: -- investigations? 04:17PM

13 MS. M. MILLER: He reviewed NTSB files and NTSB 04:17PM
14 records, and there is one chart which is 1247, I believe, I 04:17PM
15 don't know, 1242 or 1247, where he includes accidents that 04:18PM
16 were never reported to the NTSB, but we know about because the 04:18PM
17 files and information regarding the accidents were in the 04:18PM
18 possession of the Defendants. And where he has relied on the 04:18PM
19 Defendants records, to identify the date of an accident, the 04:18PM
20 helicopter involved, the personnel involved, et cetera, he 04:18PM
21 cites to which parts of the Defendants evidence he is relying 04:18PM
22 on. They have absolutely everything, Your Honor, and they 04:18PM
23 have to date, after two years, been able to show one 04:18PM
24 inaccuracy. 04:18PM

25 MS. MCCONWELL: He also -- getting back -- 04:18PM

1 THE COURT: All right, so let me just say, okay, 04:18PM
2 so unless and until there is specific objections, and they're 04:18PM
3 valid objections, the Court is inclined to allow the summary 04:18PM
4 charts in. I'll be honest with you. 04:18PM

5 On the issue of the one that you want to talk 04:18PM
6 about on the G-3025, you want to go back and discuss that with 04:18PM
7 Counsel on the Blue Ribbon, the Court will allow that. So 04:19PM
8 I'll hold off on that. But unless, you know, so that's the 04:19PM
9 Court's inclination at this time, Counsels. Anything further? 04:19PM

10 MS. M. MILLER: No, Your Honor. Thank you. 04:19PM

11 THE COURT: Nothing further, then I will see all 04:19PM
12 of you tomorrow. Yeah. 04:19PM

13 MS. M. MILLER: 1:00. 04:19PM

14 THE COURT: Yeah, 1:00. Sorry about that. We 04:19PM
15 have to do at 1:00. 04:19PM

16 MS. M. MILLER: That's fine. 04:19PM

17 THE COURT: And I'm not inclined to ask the 04:19PM
18 jurors at the last minute. I thought about that. I don't 04:19PM
19 think so. I think that one juror's baby is going to come out 04:19PM
20 like -- any minute now, pretty soon. 04:19PM

21 MS. M. MILLER: We'll talk to Mr. Guzzetti, Your 04:19PM
22 Honor. 04:19PM

23 THE COURT: Yeah. Talk to Guzzetti, tell 04:19PM
24 Guzzetti, I'm pretty sure you can stand to stay on Guam for a 04:19PM
25 few more days. 04:19PM

1 MS. M. MILLER: Yes.

04:19PM

2 THE COURT: All right. Maybe not, but I hope he
3 can. All right. Take care.

04:19PM

04:19PM

4 MS. M. MILLER: Thank you, Your Honor.

04:19PM

5 THE COURT: You guys have a nice weekend. Or no,
6 I'll see you -- (Laughing.)

04:19PM

04:19PM

7 MR. MARTIN: See you Monday, Judge.

04:19PM

8 THE COURT: I don't want to see all of you guys
9 anymore. I feel like I never left Guam.

04:19PM

04:19PM

10 (Proceedings concluded at 4:19 p.m.)

04:19PM

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04:19PM

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August 19, 2022; 1:03 p.m.; Hagatna, Guam

* * *

THE COURT: All right. You guys ready to go?

MS. M. MILLER: Yes.

THE COURT: All right. I want you to know I don't have COVID. I know I'm coughing a lot. I did take a test again. It's just I have construction in my house and I have a lot of dust in my lungs, I think. So I know I sound bad, but do know that you're safe.

All right. Let's call in the jury. They're all here. And I think we're fit to go. Where were we last?

MS. M. MILLER: We were on the admissibility of that exhibit. We were discussing it because I -- I have that 3003-15.

THE COURT: Oh, right. I already ruled on that.

MS. M. MILLER: (Shook head.) Okay.

THE COURT: I thought I did.

MS. M. MILLER: Oh, it's admitted. Okay. Thank you, Your Honor.

THE COURT: Well, you can try to get --

MS. M. MILLER: I can try to admit it; yes.

THE COURT: Yeah.

MS. M. MILLER: Got it.

THE COURT: I will allow you to at least probe

1 that.

01:04PM

2 MS. M. MILLER: Got it. Thank you, Your Honor.

01:04PM

3 THE COURT: But the other ones I already made my
4 rulings on.

01:04PM

01:04PM

5 MS. M. MILLER: Yeah, yeah. And I'll bring those
6 up on direct.

01:04PM

01:04PM

7 THE COURT: Now, for the record, there is nothing
8 else that's new that --

01:04PM

01:04PM

9 MS. M. MILLER: No, no.

01:04PM

10 THE COURT: -- that they haven't seen?

01:04PM

11 MS. M. MILLER: No. I made sure I went through
12 all the questions. Nothing is going to be introduced that
13 wasn't previously introduced.

01:04PM

01:04PM

14 THE COURT: And admitted?

01:04PM

15 MS. M. MILLER: And admitted. And all -- I can
16 tie every single question to the cross-examination.

01:04PM

01:04PM

17 THE COURT: All right. Okay.

01:04PM

18 MR. MARTIN: We'll reserve the right to object if
19 we think --

01:04PM

01:04PM

20 THE COURT: (Laughing.) *Ai adai*.

01:04PM

21 THE WITNESS: Sorry, I didn't mean to laugh.

01:05PM

22 MS. M. MILLER: And just so you know, Your Honor,
23 this will not take all day. I should be done with Mr. --
24 Special Agent Khamvongsa in an hour.

01:05PM

01:05PM

25 THE COURT: Oh, good.

01:05PM

Redirect - Khamvongsa

1 MS. M. MILLER: We'll go straight to the
2 Mr. Guzzetti.

3 THE COURT: Okay. Mr. Guzzetti is ready to go?

4 MS. M. MILLER: Yes, he is.

5 THE COURT: Okay. Excellent. But you haven't
6 decided if you're going to stop at Guzzetti?

7 MS. M. MILLER: Correct.

8 THE COURT: Okay. All right. So is our -- our
9 computer's working now? Everybody? Do we know? Up here at
10 least?

11 Okay. Please rise for the jury.

12 (Jury in at 1:05 p.m.)

13 THE COURT: Okay. Please be seated. Welcome
14 back, ladies and gentlemen of the jury. We'll continue on. I
15 just told the attorneys that I don't have COVID. I'm
16 coughing, but I did take a COVID test. So I want you to know
17 I'm good, I'm negative. But I'm -- I'm just coughing because
18 I have construction going on in my house, so I think it's all
19 the dust coming into me. So I apologize if I cough too much.
20 I've got tea and stuff.

21 All right. You may proceed.

22 MS. M. MILLER: Yes, Your Honor. Thank you.

23 Good afternoon, members of the jury. I was going
24 to say, "Good morning," but we're past morning and we're in
25 afternoon. Good afternoon, everyone.

1 THE JURY: Afternoon.

01:06PM

2 BY MS. M. MILLER: (CONTINUING)

01:06PM

3 Q. Special Agent Khamvongsa, welcome back.

01:06PM

4 A. Hello; good day.

01:06PM

5 Q. And I appreciate your bow tie today. It looks very
6 good. I'm not sure in the jurors have all seen it, but it's
7 very interesting. Okay. So --

01:06PM

01:06PM

01:06PM

8 THE COURT: Is it island wear?

01:07PM

9 MS. M. MILLER: No.

01:07PM

10 THE WITNESS: I tried.

01:07PM

11 MS. M. MILLER: Okay. We're exhausting -- we're
12 exhausting his professional wardrobe because he thought he'd
13 be on and off in a couple of days.

01:07PM

01:07PM

01:07PM

14 BY MS. M. MILLER: (CONTINUING)

01:07PM

15 Q. Okay. What I'd like to do, Special Agent Khamvongsa,
16 is talk about with you Wilma's Flight Service. Can you tell
17 the members of the jury, when was Wilma's Flight Service first
18 incorporated in the U.S.?

01:07PM

01:07PM

01:07PM

01:07PM

19 A. It was incorporated in 1999 in Guam.

01:07PM

20 Q. And yesterday, Mr. McConwell introduced to the jury a
21 document that was marked as Defense Exhibit 136. Do you
22 recall that?

01:07PM

01:07PM

01:08PM

23 A. I believe that's -- that's the --

01:08PM

24 Q. The charter, Wilma's, for Vanuatu?

01:08PM

25 A. Yes.

01:08PM

Redirect - Khamvongsa

1 Q. And what was the year that that charter was created 01:08PM
2 for Wilma's Vanuatu? 01:08PM

3 A. I can't recall. 01:08PM

4 Q. Okay. 01:08PM

5 A. Can I review it? 01:08PM

6 Q. Let's -- 01:08PM

7 MS. M. MILLER: Is Exhibit 136 in? No? Okay. 01:08PM
8 Your Honor, may I approach with Exhibit 136? It's not in 01:08PM
9 Trial Director yet. 01:08PM

10 THE COURT: Okay, yes. 01:08PM

11 MS. M. MILLER: Here you go, sir. 01:08PM

12 THE WITNESS: Thank you. 01:08PM

13 BY MS. M. MILLER: (CONTINUING) 01:08PM

14 Q. Can you tell the members of the jury, what's the date 01:08PM
15 of that charter for Wilma's in Vanuatu? 01:08PM

16 A. It's represented as July 1st, 2002. 01:08PM

17 Q. Okay. Do you remember as part of your investigation 01:08PM
18 reading why the Defendants opened up all of these Vanuatu 01:09PM
19 corporations? 01:09PM

20 A. To limit their liability. Hansen Helicopters and Jon 01:09PM
21 Walker was trying to limit their liability as it relates to 01:09PM
22 the helicopters. 01:09PM

23 Q. Okay. Have you seen all of the Vanuatu charters for 01:09PM
24 all of the Vanuatu companies listed either in 829 or 01:09PM
25 identified in this case? 01:09PM

1 A. I've only seen what was provided to me. 01:09PM

2 Q. By whom? 01:09PM

3 A. By Hansen Helicopters. 01:09PM

4 Q. Of all the charters that were provided to you, were
5 they identical? 01:09PM

6 A. Yes. 01:10PM

7 Q. Could you please look at the second page of the
8 charter that you have in front of you as Defense Exhibit 136.
9 Do you see a section called "restrictions"? 01:10PM

10 A. Yes. 01:10PM

11 Q. What is a restriction on the Vanuatu companies? 01:10PM

12 A. "Shall not carry on business in Vanuatu." 01:10PM

13 Q. From the evidence that you've seen, did the
14 Defendants carry on business in Vanuatu? 01:10PM

15 A. No. 01:10PM

16 Q. I'd like you to look at what has previously been
17 entered into evidence as Exhibit G-890, and it will come up on
18 your screen shortly. 01:11PM

19 THE COURT: And, Ms. Miller, can you blow up the
20 content of that; eliminate the white so we could read it more
21 easily. And let's wait until it's up on the jurors' screens
22 before we talk about it. 01:11PM

23 BY MS. M. MILLER: (CONTINUING) 01:11PM

24 Q. Okay. First, let's talk about the companies
25 identified on the very top of this document. Marlin Bay 01:12PM

1 Helicopters and Fling Air, Inc. Do you recall Mr. Martin
2 asking you about those companies yesterday?

3 A. I remember questions being asked about those
4 particular companies; yes.

5 Q. And do you remember those companies were not listed
6 on Exhibit 829?

7 A. I -- I can't recall without actually looking at the
8 document.

9 Q. Okay. Let me show it to you.

10 MS. M. MILLER: May I approach the witness with
11 Exhibit 829, Your Honor?

12 THE COURT: You may.

13 BY MS. M. MILLER: (CONTINUING)

14 Q. Do you see Fling Air?

15 A. Yes. Fling Air and Marlin Bay Helicopters are
16 identified on the document.

17 Q. Okay. Yesterday when Mr. Martin was asking you the
18 questions about them, though, do you remember that the address
19 in 366 was Guam, not Vanuatu?

20 A. For Fling Air; I recall it being for Fling Air; yes.

21 Q. Okay. And we're going to talk about that a little
22 bit more, but let's look at this content of this e-mail. Who
23 is Gary Wiggs?

24 A. He was the former CFO for Hansen Helicopters, the
25 chief financial officer.

1 Q. And who's being copied on this e-mail? 01:13PM

2 A. Defendant Jon Walker. 01:13PM

3 Q. And who is this e-mail addressed to? 01:13PM

4 A. It's addressed to individuals in Vanuatu with the -- 01:13PM

5 appears to be civil aviation agency in Vanuatu. 01:13PM

6 Q. Okay. Could you read what is being communicated 01:13PM

7 here? 01:13PM

8 A. "Hi, Joseph. Jon Walker is currently off Guam 01:13PM

9 island, so I am providing you with the information you 01:13PM

10 requested." 01:13PM

11 Q. Okay. Hold on. Start with No. 1. Read No. 1. 01:13PM

12 A. "The helicopters are not and will not be located in 01:13PM

13 Vanuatu." 01:13PM

14 Q. Okay. Just stop there for a minute. Read No. 2. 01:13PM

15 A. "The helicopters will be operated under N 01:14PM

16 registrations when we get them reinstated to the FAA 01:14PM

17 register." 01:14PM

18 Q. Okay. Stop there for one moment. Read No. 3, 01:14PM

19 please. 01:14PM

20 A. "The helicopters were removed from the N register by 01:14PM

21 accidental misunderstanding on the part of the seller." 01:14PM

22 Q. And read No. 4, please. 01:14PM

23 A. "There are and will be no flight operations 01:14PM

24 undertaken out of or within Vanuatu." 01:14PM

25 Q. And the date of this communication? 01:14PM

1 A. May 5th, 2010.

01:15PM

2 Q. Okay. Now, in 2018, who did you issue a grand jury
3 subpoena to for records regarding schedules of billings for
4 the tuna boat leases involving the helicopters?

01:15PM

01:15PM

01:15PM

5 A. Hansen Helicopters.

01:15PM

6 Q. Okay. And let's look at Exhibit 726, which was
7 previously produced. And when you issued this grand jury
8 subpoena to Hansen Helicopters, is this with a return to you?
9 And we'll wait until the jury can see it as well. Do you see
10 this, sir?

01:15PM

01:15PM

01:16PM

01:16PM

01:16PM

11 A. Yes.

01:16PM

12 Q. Okay. And what does it say on the very top of this
13 document?

01:16PM

01:16PM

14 A. "Wilma's Flight Services, Inc."

01:16PM

15 Q. Okay. And underneath that?

01:16PM

16 A. "Top level schedule of billings and collections."

01:16PM

17 Q. Could you tell the members of the jury, from what day
18 to what day did Hansen Helicopters give you schedules of
19 billings and records that were in the name of Wilma's Flight
20 Services, Inc?

01:16PM

01:16PM

01:16PM

01:16PM

21 A. Exhibit 7 -- Government Exhibit 726 covers the years
22 December 2013 to April of 2018.

01:16PM

01:16PM

23 Q. Now I would like you to look at what the Defendants
24 introduced yesterday as Exhibit 76.

01:16PM

01:17PM

25 MS. M. MILLER: Is that in Trial Director,

01:17PM

1 Ms. Miller? Okay.

01:17PM

2 All right. And could we blow up the top portion of
3 it that has the list of companies.

01:17PM

01:17PM

4 BY MS. M. MILLER: (CONTINUING)

01:17PM

5 Q. Do you see Wilma's on this document?

01:17PM

6 A. Yes.

01:17PM

7 Q. What is this document?

01:17PM

8 A. This is the purported insurance document that was
9 provided to me in -- in testimony through Mr. McConwell.

01:17PM

01:17PM

10 Q. Okay. And what is Wilma's identified as in this
11 document?

01:18PM

01:18PM

12 A. It is a wholly owned -- one of the wholly-owned
13 subsidiary companies for Bean Bag Helicopters, Inc.

01:18PM

01:18PM

14 Q. Now let's look at Exhibit 366, which Mr. Martin was
15 talking to you about yesterday.

01:18PM

01:18PM

16 MS. M. MILLER: Now, Ms. Miller, can you

01:19PM

17 highlight or just hone in on the very top portion of

01:19PM

18 Exhibit 366, Page 1. We'll wait until it's on screen for the
19 jurors. Yup.

01:19PM

01:19PM

20 BY MS. M. MILLER: (CONTINUING)

01:19PM

21 Q. Where it says "attachments," can you tell the members
22 of the jury, what does it say right after the word
23 "attachments"?

01:19PM

01:19PM

01:19PM

24 A. "Hansen Helicopters in Vanuatu, group structure."

01:19PM

25 Q. Okay.

01:19PM

1 A. Do you want me to keep going? 01:19PM

2 Q. No. 01:19PM

3 And the date of this, sir? 01:19PM

4 A. October 5th, 2016. 01:19PM

5 Q. Okay. Now, I would like you to look at Page 3 of 01:19PM

6 Exhibit 366. And that is the list of helicopters that was 01:20PM

7 being shared with a prospective buyer of Hansen Helicopters; 01:20PM

8 correct? 01:20PM

9 A. Yes. 01:20PM

10 MS. MCCONWELL: Your Honor, I object. That 01:20PM

11 misstates prior evidence and testimony. 01:20PM

12 THE COURT: Okay. 01:20PM

13 MS. MCCONWELL: If she's indicating that the 01:20PM

14 receiver of the e-mail is a prospective buyer, that's not what 01:20PM

15 the testimony has been in the case. 01:20PM

16 MS. M. MILLER: I disagree, Your Honor. The 01:20PM

17 testimony has absolutely been that. 01:20PM

18 THE COURT: Why don't we -- the Court will leave 01:20PM

19 that up to the jury to decide. 01:20PM

20 MS. M. MILLER: Okay. 01:20PM

21 THE COURT: It's their memory that counts anyway. 01:20PM

22 So you may proceed. 01:20PM

23 BY MS. M. MILLER: (CONTINUING) 01:20PM

24 Q. Do you remember why this information was being shared 01:20PM

25 with the group that it was being shared with? 01:20PM

1 A. It was to show the -- the entire fleet that Hansen
2 Helicopters had in its possession.

3 Q. For what purpose?

4 A. It's to identify the assets, to determine the worth
5 or the value of the company.

6 Q. Who is Hansen sharing this information with?

7 A. They're sharing this information with the potential
8 buyers.

9 Q. Of these helicopters that are being listed as an
10 asset, could you tell the members of the jury how many of
11 these were on the MD Helicopters destroyed list?

12 A. I've identified 14 of these helicopters being on the
13 MD Helicopters destroyed list.

14 Q. Now let's turn to Page 37 of Exhibit 366, please.
15 Could you tell the members of the jury who is being identified
16 as having a total of 46 helicopters on Page 37?

17 A. Hansen Helicopters, Inc., as identified here in this
18 document.

19 Q. Where do you usually see assets in financial
20 paperwork?

21 A. On the balance sheet.

22 MS. MCCONWELL: I object to foundation.

23 MS. M. MILLER: He's an accountant, he's an IRS
24 agent.

25 THE COURT: Overruled. Overruled.

1 MS. MCCONWELL: He's not an accountant, he is 01:22PM
2 not -- he was -- no -- 01:22PM
3 MR. MARTIN: He has an accounting degree. 01:22PM
4 MS. MCCONWELL: He has a bachelor of arts -- a 01:22PM
5 bachelor of arts. And he's not an expert, he's an IRS agent. 01:22PM
6 MS. M. MILLER: He has an accounting degree -- 01:22PM
7 THE COURT: Don't you have an accounting degree? 01:22PM
8 THE WITNESS: I do. 01:22PM
9 THE COURT: I do recall that. Overruled. Go 01:22PM
10 ahead. 01:22PM
11 BY MS. M. MILLER: (CONTINUING) 01:22PM
12 Q. Where do you usually see assets in financial 01:22PM
13 documents? 01:22PM
14 A. I see them in the balance sheet. Specifically the 01:22PM
15 balance sheet of the company that owns it. 01:22PM
16 Q. Let's look at the balance sheet that was produced to 01:22PM
17 the prospective buyer on Page 87 of Exhibit 366. What is the 01:22PM
18 name of the company on the top of this balance sheet? 01:23PM
19 A. Wilma's Flight Service, Inc. 01:23PM
20 Q. Okay. Now, if you look at -- well, first, before we 01:23PM
21 go to that, what is Wilma's identified as in Row 1 of this 01:23PM
22 balance sheet? 01:23PM
23 A. "Jon D. Walker, Entities Under Common Control." 01:23PM
24 Q. Now let's go to Row 30 -- well, first, before we do 01:24PM
25 that -- 01:24PM

1 MS. M. MILLER: Thank you, Ms. Miller. 01:24PM

2 BY MS. M. MILLER: (CONTINUING) 01:24PM

3 Q. Could you please tell the members of the jury, when 01:24PM
4 we look at the top of this, how many different companies are 01:24PM
5 identified as Jon Walker entities under common control. 01:24PM

6 A. Six. 01:24PM

7 Q. And what are the names of those companies? 01:24PM

8 A. Wilma's Flight Service, Inc., Bean Bag Helicopters 01:24PM
9 Services, Inc., Caledonian Insurance Company Limited, 01:24PM
10 Caledonian Agency, Inc., Hansen Helicopters, Inc., Hansen 01:24PM
11 Northern Helicopters, Inc. That's it. 01:24PM

12 Q. Are all those companies on Exhibit 829? 01:24PM

13 A. Yes. 01:25PM

14 Q. Now go to Line -- Row, rather, 36 of Page 87. What 01:25PM
15 is identified in Row 36 of Page 87? 01:25PM

16 A. Fixed -- fixed assets, and it identifies aircraft 01:25PM
17 underneath that. 01:25PM

18 Q. Okay. What is the value of the aircraft being 01:25PM
19 identified in that document? 01:25PM

20 A. Under Wilma's, it's identified as ten point -- over 01:25PM
21 10.5 million. And then for Hansen Northern Helicopters, it's 01:25PM
22 identified as over 3 million. And then for -- or, excuse me, 01:25PM
23 for Hansen Helicopters, it's over 3 million. And then for 01:25PM
24 Hansen Northern Helicopters, it's 360,000 in value for the 01:26PM
25 aircraft, so totaling a little under \$14 million in aircraft 01:26PM

1 assets.

2 Q. Now let's go to Page 97 of this document.

3 MS. M. MILLER: And, Ms. Miller, if you could
4 hone in on the very top so the jury can see what this document
5 is.

6 BY MS. M. MILLER: (CONTINUING)

7 Q. What is this document, sir?

8 A. It's a profit/loss statement for Hansen Helicopters
9 for the period January through December of 2015.

10 Q. And what is identified in Row 1 of this particular
11 document?

12 A. These are Jon D. Walker's group companies.

13 Q. Okay. Jon D. Walker's what companies?

14 A. Group.

15 Q. Group companies.

16 A. Group companies.

17 Q. Okay. Now, identify those companies.

18 A. Wilma's Flight Services, Inc., Bean Bag Helicopters,
19 Inc., Caledonian Insurance Company Limited, Caledonian Agency,
20 Inc., Hansen Helicopters, Inc., and Hansen Northern
21 Helicopters, Inc.

22 Q. Okay. And let's go to what is being identified as
23 the profit for those combined companies.

24 MS. M. MILLER: Ms. Miller, if you can get out of
25 this one and highlight the profit.

1 BY MS. M. MILLER: (CONTINUING)

2 Q. And this is for the year 2016; correct?

3 A. 2015.

4 Q. 2015. Okay. And could you tell the members of the
5 jury, what is the total profit?

6 A. It's actually -- it's the gross revenue, actually.
7 It's what --

8 Q. Gross revenue.

9 A. And that reflects over \$23 million.

10 Q. Can you give me the exact amount, sir?

11 A. Yes. \$23,167,598.96.

12 Q. And this is for 2015 for Hansen Helicopters?

13 A. Yes.

14 Q. And this amount rolls up any income for any of those
15 six companies that you identified?

16 A. Yes. This includes all six companies identified on
17 the profit/loss statement.

18 Q. Can you tell the members of the jury whether you
19 tried to get tax return information for all of the companies
20 that were identified by the Defendants as being used?

21 A. Yes.

22 Q. Which companies actually filed tax returns?

23 A. Hansen Helicopters.

24 MR. MARTIN: Well, Your Honor, I'm objecting.
25 Tax returns has never been brought up on direct or cross, and

1 we're getting into it for the first time now, and I object to
2 it.

3 THE COURT: That's a good point.

4 MS. M. MILLER: May I respond?

5 MS. MCCONWELL: And Hansen Helicopters is not a
6 party to Counts 99 through 110 to the -- and I would also join
7 in Mr. Martin's objection.

8 THE COURT: Okay.

9 MS. M. MILLER: May I respond, Your Honor?

10 THE COURT: Yes.

11 MS. M. MILLER: So yesterday, we heard Mr. Martin
12 go on for two hours about the representations being made in
13 Exhibit 366 from each of these Vanuatu companies, or
14 non-Vanuatu companies, having as an asset of each of these
15 individual aircraft.

16 So this goes directly to contradict the fact that
17 any of those companies had as an asset any of those aircraft
18 because none of them ever identified the aircraft as an asset.
19 We just showed that the aircraft were all identified as assets
20 of Hansen Helicopters and the six companies that are wholly
21 owned by Hansen, and the only income from all of the tuna boat
22 leases was income shown by Hansen Helicopters and its tax
23 return because none of those other companies ever filed a tax
24 return. That's directly relevant to contradict what
25 Mr. Martin tried to do with this jury yesterday.

1 THE COURT: All right. 01:30PM

2 MR. MARTIN: May I respond, Your Honor? 01:30PM

3 THE COURT: Yes. Go ahead. 01:30PM

4 MR. MARTIN: To begin with, the fact that I went 01:30PM

5 on for two hours and the fact that the government has gone on 01:30PM

6 for five days with this witness has nothing to do with the 01:30PM

7 objection -- 01:30PM

8 THE COURT: Okay, okay, okay. Wait, wait, wait. 01:30PM

9 MS. M. MILLER: Move to strike that, because I 01:30PM

10 haven't been doing this witness for five days. We've been on 01:30PM

11 breaks -- 01:30PM

12 MR. MARTIN: It's my response. 01:30PM

13 THE COURT: Ms. Miller, no, no, do not interrupt 01:30PM

14 the Court. 01:30PM

15 MS. M. MILLER: Yes, yes. 01:30PM

16 THE COURT: And do not interrupt the objection. 01:30PM

17 I agree that -- you know, to say that he went on for two 01:30PM

18 hours, that's a cheap shot. And to say that she went on for 01:31PM

19 five days, another cheap shot. 01:31PM

20 MR. MARTIN: I agree, Your Honor. 01:31PM

21 THE COURT: So the two of you, cut it out. Let's 01:31PM

22 just move on because -- let's not waste our energy on these 01:31PM

23 little -- 01:31PM

24 MS. M. MILLER: Yes, Your Honor. 01:31PM

25 THE COURT: -- tit-for-tat. Let's just go on. 01:31PM

1 We all get heated; in the heat of battle, we get all excited. 01:31PM

2 Let's just focus and get this little guy off the stand -- this 01:31PM

3 guy. He needs -- he probably needs to, you know, go eat 01:31PM

4 something. He's tired of being here. All right. 01:31PM

5 MR. MARTIN: My objection was beyond the scope of 01:31PM
6 cross, Your Honor. 01:31PM

7 THE COURT: Yeah. 01:31PM

8 MR. MARTIN: Her response had nothing to do with 01:31PM
9 my cross-examination because the questions that I asked did 01:31PM
10 not identify any assets. My question was very specific. We 01:31PM
11 heard Veronica read it back yesterday: Is aircraft on the FAA 01:31PM
12 registry X, Y, Z an asset? He answered it. That's -- that is 01:31PM
13 where I ended. Anything beyond that is beyond the scope of my 01:32PM
14 cross, and I object. 01:32PM

15 THE COURT: And I told both of you that, you 01:32PM
16 know, when you guys argue this with the jury, it will be -- 01:32PM
17 that'll be the argument -- 01:32PM

18 MS. M. MILLER: Right. 01:32PM

19 THE COURT: -- that it was related only to the 01:32PM
20 document, not necessarily to the corporation. 01:32PM

21 MS. M. MILLER: And, Your Honor, the 01:32PM
22 government -- 01:32PM

23 THE COURT: The issue of beyond the scope -- 01:32PM

24 MS. M. MILLER: But the government is very -- if 01:32PM
25 Mr. Martin wants to stipulate that these -- 01:32PM

1 THE COURT: No, no, no, no. Strike that. 01:32PM

2 MS. M. MILLER: Okay. 01:32PM

3 THE COURT: Let's not -- if you guys want to talk 01:32PM
4 about stipulations, do it outside the presence of the jury. 01:32PM

5 MS. M. MILLER: Okay. That's fine. 01:32PM

6 THE COURT: Because it's not fair -- it's like 01:32PM
7 saying, "Hey, do you want to stipulate to... everything I want 01:32PM
8 in." Don't do that. 01:32PM

9 MS. M. MILLER: Sure. 01:32PM

10 THE COURT: Because no prosecutor, no defense 01:32PM
11 attorney will stipulate to anything unless it's -- unless they 01:32PM
12 really want to do it, and they would have already done it. 01:32PM

13 MS. M. MILLER: Clearly, the inference -- 01:32PM

14 THE COURT: I know -- I know the argument. 01:32PM

15 MS. M. MILLER: Okay. 01:32PM

16 THE COURT: The issue is -- the -- the objection 01:32PM
17 is beyond the scope. I heard your argument. 01:32PM

18 MS. M. MILLER: Yes. 01:32PM

19 THE COURT: Yes, Ms. McConwell? 01:32PM

20 MS. MCCONWELL: I was just going to ask the Court 01:32PM
21 to remind Counsel that we're not to be making speaking 01:33PM
22 objections. 01:33PM

23 MS. M. MILLER: Your Honor, I'm responding to a 01:33PM
24 speaking objection. 01:33PM

25 THE COURT: Okay. I think everybody -- 01:33PM

1 MS. MCCONWELL: Argument -- 01:33PM

2 THE COURT: You all have to be reminded NSO, "no 01:33PM
3 speaking objections." 01:33PM

4 All right. Everybody, let's calm down. Because 01:33PM
5 if not, if we don't at least get through this, you know, we 01:33PM
6 don't have to -- I don't have to speak so much. I'm already 01:33PM
7 losing my voice, so let's -- let's get through this. 01:33PM

8 On this objection, I think -- excuse me. On the 01:33PM
9 -- I think you're getting too -- you know, if you're going to 01:33PM
10 keep on and on about the tax stuff -- 01:33PM

11 MS. M. MILLER: Oh, no. 01:33PM

12 THE COURT: Is that it, you're done? 01:33PM

13 MS. M. MILLER: I -- 01:33PM

14 THE COURT: Are you done on this tax question? 01:33PM

15 MS. M. MILLER: I'm done. 01:33PM

16 THE COURT: All right. Move on to the next 01:33PM
17 question. 01:33PM

18 MS. M. MILLER: Okay. 01:33PM

19 THE COURT: Go ahead. 01:33PM

20 BY MS. M. MILLER: (CONTINUING) 01:33PM

21 Q. So the next question -- 01:33PM

22 THE COURT: So we wasted ten minutes talking 01:33PM
23 about it. If you're going to move on, let's go. 01:33PM

24 MS. M. MILLER: I know. All right. 01:33PM

25 BY MS. M. MILLER: (CONTINUING) 01:33PM

1 Q. Right. Now, one of the questions that was asked of
2 you by Mr. McConwell was, Isn't it true that since these
3 transactions involved Vanuatu companies that the funds weren't
4 necessarily paid in U.S. dollars? I'd like you to look at a
5 document that was admitted as Exhibit 1542.

6 MS. MCCONWELL: Your Honor, I object. That's not
7 the question that was posed by Mr. McConwell.

8 MS. M. MILLER: Well, we can go to the exact
9 question.

10 THE COURT: Let's not. 1542. Court will
11 overrule the objection. Go ahead.

12 MS. M. MILLER: Yeah, 1542 is already admitted,
13 Your Honor.

14 THE COURT: Okay.

15 (Pause.)

16 MS. MCCONWELL: I do not have 1542 as having been
17 admitted.

18 THE COURT: 1542, nobody has it? Carmen doesn't
19 have it? She doesn't have it. You want to double-check?
20 Maybe it's the wrong number?

21 MS. M. MILLER: We had it -- no, I don't think
22 it's the wrong number, but we did have it as admitted, Your
23 Honor.

24 MS. MCCONWELL: No.

25 THE COURT: Okay. Well, let's try to find it.

1 MS. M. MILLER: Yup. 01:35PM

2 THE COURT: My court clerk doesn't have it. 01:35PM

3 Neither does Ms. McConwell. 01:35PM

4 MS. M. MILLER: Okay. So we'll lay the 01:35PM

5 foundation. We did have it as admitted, Your Honor, but we 01:35PM

6 will go ahead and lay the foundation. 01:35PM

7 THE COURT: Okay. 01:35PM

8 MS. M. MILLER: And if we could show it to the 01:35PM

9 witness and to the Court and to Counsel. 01:35PM

10 Can you -- Ms. Miller, could you get the -- my 01:35PM

11 yellow -- oh, you can't. Oh, never mind. Ms. Santos did it. 01:35PM

12 BY MS. M. MILLER: (CONTINUING) 01:35PM

13 Q. All right. So, sir, so do you recognize 01:35PM

14 Exhibit 1542? 01:35PM

15 A. Yes. 01:35PM

16 Q. Okay. Is it a true and correct copy of a document 01:35PM

17 that was seized or subpoenaed from the defendants? 01:35PM

18 A. Yes. 01:35PM

19 MS. M. MILLER: Your Honor, at this time, the 01:35PM

20 Government would offer Exhibit 1542 in. And I will not say 01:35PM

21 anything further until Your Honor rules about it. 01:35PM

22 THE COURT: Okay. Any objections, Counsel? 01:35PM

23 MR. MARTIN: May I have just a minute, Your 01:35PM

24 Honor? I'm just pulling it up. 01:36PM

25 THE COURT: That's fine. I think it's -- yeah, 01:36PM

1	it's on the screen. Uh-huh.	01:36PM
2	(Pause.)	01:37PM
3	MR. MARTIN: If it please the Court, Your Honor.	01:37PM
4	THE COURT: Yes.	01:37PM
5	MR. MARTIN: I have an objection, but I would	01:37PM
6	rather not make it in the presence of the jury. I think it	01:37PM
7	would be more appropriate. And I apologize, but there is an	01:37PM
8	issue here.	01:37PM
9	THE COURT: Oh. Okay. Have we fixed that? Oh,	01:37PM
10	we fixed it? Okay. Well, can we -- let's try it. Let's try	01:37PM
11	the... will it take just a few minutes?	01:37PM
12	MR. MARTIN: It shouldn't take too long.	01:37PM
13	(Trying to get sidebar microphones on.)	01:40PM
14	(Pause.)	01:40PM
15	MR. MARTIN: You'll be absolutely amazed, Your	01:41PM
16	Honor, but in the -- in the attempt to reach cooperation, I	01:41PM
17	think we have an agreement. Just if I may talk with	01:41PM
18	Ms. Miller one minute, I think we can resolve this.	01:41PM
19	THE COURT: Oh, nice, I like that.	01:41PM
20	MS. M. MILLER: Miracles do occur.	01:41PM
21	MR. MARTIN: It will never happen again.	01:41PM
22	THE COURT: I'm praying, I'm praying. I've got	01:41PM
23	my rosary here.	01:42PM
24	(Pause.)	01:42PM
25	(Counsel conferred.)	01:42PM

1 MS. M. MILLER: We have a stipulation. 01:42PM

2 THE COURT: Still good, team? 01:42PM

3 MS. M. MILLER: Yeah, we have a stipulation. 01:42PM

4 THE COURT: Oh, go ahead. Read it out. 01:42PM

5 MS. M. MILLER: So the stipulation is that all of 01:42PM

6 the payments from the tuna boat companies were always made in 01:42PM

7 U.S. dollars. So we don't need to bring this in. 01:42PM

8 THE COURT: Oh, very good. Is that correct, 01:42PM

9 Mr. Martin? 01:42PM

10 MR. MARTIN: Amazingly, Yes, Your Honor. 01:42PM

11 THE COURT: And Ms. McConwell? 01:42PM

12 MS. MCCONWELL: Yes, ma'am. 01:42PM

13 THE COURT: Okay. Well, I'm glad we had that 01:42PM

14 breakdown in our COVID -- whatever that thing is, apparatus. 01:42PM

15 What's it called? Mouthpiece? 01:42PM

16 MS. M. MILLER: I don't know. So we could take 01:42PM

17 this off the screen, Ms. Miller. 01:42PM

18 THE COURT: Okay. Well, I hope that moved -- 01:42PM

19 yeah, this is moving it along. 01:42PM

20 MS. M. MILLER: And that eliminated three 01:42PM

21 questions. 01:42PM

22 THE COURT: Even better. Okay. 01:42PM

23 BY MS. M. MILLER: (CONTINUING) 01:43PM

24 Q. Special Agent Khamvongsa, yesterday we did hear 01:43PM

25 from -- or it might have been the day before, Mr. McConwell 01:43PM

Redirect - Khamvongsa

1 introduced letters from the Bank of Hawaii to several of the 01:43PM
2 Hansen Helicopters subsidiaries closing their accounts; do you 01:43PM
3 remember that? 01:43PM

4 A. Yes. 01:43PM

5 Q. And, for the record, those were Exhibits 132, 133, 01:43PM
6 134 and 135; do you recall that, sir? 01:43PM

7 A. I recall reviewing those, yes. 01:43PM

8 Q. And one of those companies was Wilma's Flight 01:43PM
9 Service? 01:43PM

10 A. Yes. 01:43PM

11 Q. Could you tell the members of the jury the address 01:43PM
12 that the bank had for Wilma's Flight Services. 01:43PM

13 A. Though I know it, could I review the document real 01:43PM
14 quick, please? 01:43PM

15 Q. Yes. 01:43PM

16 MS. M. MILLER: May I approach the witness with 01:43PM
17 the documents, Your Honor? 01:43PM

18 THE COURT: Yes, you may. 01:43PM

19 THE WITNESS: Thank you. 01:43PM

20 BY MS. M. MILLER: (CONTINUING) 01:43PM

21 Q. Thank you. 01:43PM

22 What was the address, sir? 01:43PM

23 A. It is PO Box 9099, Tamuning, Guam. 01:44PM

24 Q. Okay. And the next letter? 01:44PM

25 A. Hansen Helicopters, Inc. The address is PO Box 9099, 01:44PM

1 Tamuning, Guam. 01:44PM

2 Q. Next letter. 01:44PM

3 A. Caledonian Agency, Inc. The address is PO Box 9099,
4 Tamuning, Guam. 01:44PM

5 Q. And the next letter. 01:44PM

6 A. Hansen Northern Helicopters, Inc. The address is PO
7 Box 9099, Tamuning, Guam. 01:44PM

8 Q. Okay. Thank you, sir. 01:44PM

9 Now let's look at an exhibit that Mr. Martin showed
10 you yesterday, which is Government's Exhibit 752-54. And I'll
11 come and retrieve those documents from you. Thank you, sir.
12 Thank you. 01:45PM

13 MS. MCCONWELL: Your Honor, I'm going to object
14 to this as cumulative. Ms. Miller was already asking
15 questions about 752-54 yesterday, I think, so I'm objecting
16 that it's cumulative. 01:45PM

17 MS. M. MILLER: I don't recall that at all. 01:45PM

18 THE COURT: You never -- you never asked about
19 752-54? 01:45PM

20 MS. M. MILLER: I may have started and then we
21 had objections and -- anyway. 01:45PM

22 THE COURT: May have got lost? 01:45PM

23 MS. M. MILLER: Yeah. 01:45PM

24 THE COURT: Well -- all right. Let's hear the --
25 overruled at this time then since we can't pinpoint this. Go 01:45PM

1 ahead. What was the question? 01:45PM

2 MS. M. MILLER: We're going to look at 752-54, 01:45PM

3 which is what Mr. Martin introduced or discussed yesterday. 01:45PM

4 THE COURT: All right. 01:45PM

5 BY MS. M. MILLER: (CONTINUING) 01:45PM

6 Q. And do you see that, sir? 01:45PM

7 A. Yes. 01:45PM

8 Q. Okay. Now, what is the date on this document? 01:45PM

9 A. August 29th, 2007. 01:45PM

10 Q. Okay. Which aircraft does this document pertain to? 01:46PM

11 A. N9068F. 01:46PM

12 Q. And what is the serial number on this document? 01:46PM

13 A. 210293S. 01:46PM

14 Q. And what is the name of the company that is 01:46PM

15 registering the aircraft? 01:46PM

16 A. Whirlwide Helicopters, Inc. 01:46PM

17 Q. And the individual? 01:46PM

18 A. The individual signing it is Jon D. Walker, 01:46PM

19 President. 01:46PM

20 Q. And the certification is indicating what, sir? 01:46PM

21 A. The certification? Would you like me to read it 01:46PM

22 specifically? 01:46PM

23 Q. Yes, please. 01:46PM

24 A. "I certify that the above aircraft is owned by the 01:46PM

25 undersigned applicant who is a citizen, including 01:47PM

1 corporations, for the United States -- or of the United
2 States." For voting trust, give name of trustee -- that's
3 blank -- or check one as appropriate. "A, a resident alien
4 with alien registration"; number is blank. "(B), a noncitizen
5 corporation organized and doing business under the laws of
6 state," which is left blank, "and said aircraft is based and
7 primarily used in the United States. Records or flight hours
8 are available for inspection at," and that's left blank.
9 "Two, that the aircraft is not registered under the laws of
10 any foreign country."

11 Q. Okay.

12 MS. M. MILLER: Ms. Miller, can you back up out
13 of that to show the rest of it and the signature, please.
14 Okay.

15 BY MS. M. MILLER: (CONTINUING)

16 Q. Sir, how many times did Jon Walker register aircraft
17 under the name of some other company but certifying that the
18 aircraft was being registered by a U.S. citizen or a U.S.
19 citizen corporation?

20 A. 317 times.

21 Q. Now, we also saw, which was produced or identified by
22 Mr. Martin, the bill of sale for 9068F. I'd like to show you
23 Exhibit 752-56. Do you see that, sir?

24 A. Yes.

25 MS. S. MILLER: Marie?

1 MS. M. MILLER: Yes?

01:48PM

2 (Counsel conferred.)

01:48PM

3 MR. MARTIN: Your Honor, the bill -- I object.

01:48PM

4 The bill of sale I used was 752, I believe 52, if we're going
5 to use the one that I used.

01:48PM

01:49PM

6 THE COURT: Okay. Did you hear that, Counsel?

01:49PM

7 MS. M. MILLER: No, I didn't hear, I'm sorry.

01:49PM

8 THE COURT: He said he used 752-52, not 56.

01:49PM

9 MS. M. MILLER: Okay. So let's go to that one.

01:49PM

10 752-52. And if you could, please, expand that, Ms. Miller, so
11 we could see it.

01:49PM

01:49PM

12 BY MS. M. MILLER: (CONTINUING)

01:49PM

13 Q. Okay. So who is identified as the seller of 9068F?

01:49PM

14 A. The seller is identified is Whirlwide Helicopters,
15 Inc., out of Tamuning, Guam, Jon Walker.

01:49PM

01:49PM

16 Q. And what is the address for Whirlwide as the seller?

01:49PM

17 A. PO Box 9099, Tamuning, Guam.

01:49PM

18 Q. And who is the purchaser?

01:49PM

19 A. The purchaser is Whirlwide Helicopters, Inc., 9102
20 PMB Lini Highway, Port Vila, Vanuatu.

01:49PM

01:50PM

21 Q. And what is the date of this document? Whoops. What
22 is the date of this document?

01:50PM

01:50PM

23 A. The 21st day of December 2007.

01:50PM

24 MS. M. MILLER: Okay. Now let's go back,

01:50PM

25 Ms. Miller, to the document that I identified which predates

01:50PM

1	this.	01:50PM
2	BY MS. M. MILLER: (CONTINUING)	01:50PM
3	Q. And what is the date of this bill of sale, sir?	01:50PM
4	A. The 3rd day of August 2007.	01:50PM
5	Q. And in August of 2007, who was the seller of this	01:50PM
6	helicopter?	01:50PM
7	A. Hansen Helicopters, Inc.	01:51PM
8	Q. And who is the purchaser?	01:51PM
9	A. Whirlwide Helicopters -- excuse me. Whirlwide	01:51PM
10	Helicopters, Inc., PMB 9102 Lini Highway, Port Vila, Vanuatu.	01:51PM
11	MS. M. MILLER: Okay. So if we could,	01:51PM
12	Ms. Miller, put both of those bills of sale side by side.	01:51PM
13	MR. MARTIN: Your Honor, my objection still	01:51PM
14	stands. I did not talk about 752-56. I object as it being	01:51PM
15	beyond the scope.	01:51PM
16	MS. M. MILLER: May I respond? He did talk about	01:51PM
17	this bill of sale, which the bill of sale that he talked about	01:51PM
18	was only one month after this bill of sale. And it regards	01:51PM
19	the same helicopter that he talked about with the same serial	01:52PM
20	number that he talked about.	01:52PM
21	THE COURT: Okay.	01:52PM
22	MR. MARTIN: Your Honor, this is a speaking	01:52PM
23	objection.	01:52PM
24	MS. M. MILLER: I'm responding to the relevance.	01:52PM
25	THE COURT: I'm sorry. So --	01:52PM

1 MS. M. MILLER: And that's -- 01:52PM

2 MR. MARTIN: I didn't object to relevance. I 01:52PM
3 objected beyond the scope. 01:52PM

4 THE COURT: All right. Okay. 01:52PM

5 MR. MARTIN: And I never questioned about this 01:52PM
6 exhibit, Your Honor. 01:52PM

7 THE COURT: All right. Okay. So you're just 01:52PM
8 saying it's related to the exhibit that was -- essentially, 01:52PM
9 you don't have to tell how it's related, but it's related to 01:52PM
10 752-52? 01:52PM

11 MS. M. MILLER: Yes, Your Honor. 01:52PM

12 THE COURT: Okay. That's her response. 01:52PM

13 MS. M. MILLER: Yes. 01:52PM

14 MR. MARTIN: It's beyond the scope, Your Honor. 01:52PM

15 This file that they are in, 752, all deals with the same 01:52PM
16 helicopter. So that -- under that theory, I believe this file 01:52PM
17 is 170 pages long. That makes every exhibit in there not 01:52PM
18 beyond the scope. It is beyond the scope. I talked about 01:52PM
19 specific documents, and so I object. 01:52PM

20 THE COURT: All right. So the Court will 01:52PM
21 overrule the objection at this time. Go ahead. 01:52PM

22 MS. M. MILLER: Yes. Ms. Miller, can you put 01:52PM
23 them both side by side, please. Okay. 01:52PM

24 BY MS. M. MILLER: (CONTINUING) 01:52PM

25 Q. So we see here, Special Agent Khamvongsa, bills of 01:53PM

1 sale that are only one month apart; is that correct? 01:53PM

2 A. Yes. 01:53PM

3 Q. Okay. And what we see here, the earlier bill of 01:53PM
4 sale -- 01:53PM

5 MR. MARTIN: Your Honor, the objection is 01:53PM
6 leading. I think she should ask him a specific question -- 01:53PM

7 MS. M. MILLER: I'm -- 01:53PM

8 MR. MARTIN: -- and let him answer and not 01:53PM
9 leading him. 01:53PM

10 THE COURT: All right. The objection will be 01:53PM
11 sustained. 01:53PM

12 BY MS. M. MILLER: (CONTINUING) 01:53PM

13 Q. What is the earlier bill of sale of these two? 01:53PM

14 A. The earlier bill of sale is the one on the right, 01:53PM
15 reflecting that Hansen Helicopters sold N9068F to Whirlwide 01:53PM
16 Helicopters. 01:53PM

17 Q. Okay. Can you circle the owner of this helicopter in 01:53PM
18 the earlier bill of sale, please. 01:53PM

19 A. Yes. 01:54PM

20 Q. And can you put the No. 1 next to that. 01:54PM

21 A. (Witness complied.) 01:54PM

22 Q. Okay. And could you circle who is the purchaser of 01:54PM
23 this helicopter, according to what was filed with the FAA. 01:54PM

24 A. On that same document? 01:54PM

25 Q. Yes, sir. And put No. 2 there. 01:54PM

1 THE WITNESS: Can I change the color? 01:54PM

2 THE COURT: Hold on. He wants to change the 01:54PM

3 color. Okay. Hold on. Let's see. Show you how do it. Hold 01:54PM

4 on. Hold on and Carmen will help you. 01:54PM

5 THE WITNESS: Okay. Thank you. 01:55PM

6 THE COURT: You want a different color, though? 01:55PM

7 MS. M. MILLER: I think he wanted the thickness 01:55PM

8 to be gone, Your Honor. 01:55PM

9 THE WITNESS: I meant the thickness. I'm sorry. 01:55PM

10 MS. M. MILLER: Because the thickness was kind of 01:55PM

11 covering some of the... yeah. 01:55PM

12 BY MS. M. MILLER: (CONTINUING) 01:55PM

13 Q. So now let's look at the exhibit that Mr. Martin 01:55PM

14 talked to you about yesterday. Who is the seller in 752-52? 01:55PM

15 Can you circle that? 01:55PM

16 A. (Witness complied.) 01:55PM

17 Q. And can you write No. 3 next to that. 01:55PM

18 A. (Witness complied.) 01:55PM

19 Q. What is the difference between the purchaser in 01:55PM

20 Exhibit 752-56, who is now the seller in 752-52? 01:55PM

21 A. The address is different on both -- on the document 01:56PM

22 for Whirlwide Helicopters. 01:56PM

23 Q. And who is the purchaser in the document that 01:56PM

24 Mr. Martin introduced through you yesterday? 01:56PM

25 A. Whirlwide Helicopters out of -- that reflects the 01:56PM

1 address PO Box 9099, Tamuning, Guam. 01:56PM

2 Q. Purchaser, sir, of 752-52. 01:56PM

3 A. Sorry. Whirlwide Helicopters, Inc., 9102 PMB Lini
4 Highway, Port Vila, Vanuatu. 01:56PM

5 Q. Can you circle that and put No. 4, please. 01:56PM

6 A. Yes. (Witness complied.) 01:56PM

7 Q. So if we look at these two documents together, then
8 it would appear, would it not, sir, that -- 01:56PM

9 MS. MCCONWELL: Your Honor, I object to leading. 01:56PM

10 MS. M. MILLER: I haven't even finished the
11 question yet, Your Honor. 01:57PM

12 THE COURT: Okay. Go ahead, finish the question. 01:57PM

13 BY MS. M. MILLER: (CONTINUING) 01:57PM

14 Q. Who, as the owner, as of the final transaction
15 evidenced in 752-56, is selling to who as the purchaser in the
16 final transaction in 752-52? 01:57PM

17 A. Who is the owner? 01:57PM

18 Q. To to for? 01:57PM

19 A. There is no change. Whirlwide -- or Jon Walker. 01:57PM

20 Q. Well -- but Whirlwide Vanuatu is selling to Whirlwide
21 Vanuatu? 01:57PM

22 A. Correct. 01:57PM

23 Q. Why? 01:57PM

24 MR. MARTIN: Speculation, Your Honor. 01:57PM

25 THE COURT: Sustained. 01:57PM

1 BY MS. M. MILLER: (CONTINUING)

01:57PM

2 Q. And who is signing off on this information that's
3 being sent to the FAA?

01:57PM

01:57PM

4 A. Jon Walker.

01:57PM

5 Q. Now, 752-52, which Mr. Martin asked you about
6 yesterday, we end with who owning 9068F, serial number
7 210293S. Who's the final owner of that helicopter according
8 to the paperwork that Mr. Martin presented to you?

01:57PM

01:58PM

9 A. Whirlwide Helicopters, Inc.

01:58PM

10 Q. And what is the address of that owner at that time?

01:58PM

11 A. 9102 PMB Lini Highway, Port Vila, Vanuatu.

01:58PM

12 Q. So the last info the FAA has about the ownership of
13 9068F is Whirlwide Vanuatu; correct?

01:58PM

01:58PM

14 A. Yes.

01:58PM

15 MS. MCCONWELL: Could we have a date on that,
16 Your Honor? I'm not sure what the time frame is.

01:58PM

01:58PM

17 THE COURT: Date?

01:58PM

18 THE WITNESS: The date on that document is
19 December 21st, 2007.

01:58PM

01:58PM

20 BY MS. M. MILLER: (CONTINUING)

01:59PM

21 Q. Let's look at the chart of registrations that has
22 been entered into evidence as Exhibit 1252. And we'll look at
23 9068F and see if that registration information ever changed.

01:59PM

01:59PM

01:59PM

24 MS. M. MILLER: Thank you, Ms. Santos.

02:00PM

25 Ms. Miller, can you just focus -- thank you so much.

02:00PM

1 BY MS. M. MILLER: (CONTINUING)

02:00PM

2 Q. So, sir, can you tell the members of the jury, all
3 the way through the time it was deregistered in 2019, who was
4 identified as the registered owner of 9068F?

02:00PM

02:00PM

02:00PM

5 A. Whirlwide Helicopters, Inc.

02:00PM

6 Q. Okay. And the address that was provided, if you look
7 at the first row, what was the address there?

02:00PM

02:00PM

8 A. 9102 Lini Highway PMB, Port Vila, Vanuatu.

02:00PM

9 Q. Okay. Now --

02:00PM

10 MS. M. MILLER: I'd like to approach the witness,
11 Your Honor, with what has been previously entered into
12 evidence as Exhibit 2972.

02:00PM

02:00PM

02:00PM

13 THE COURT: You may.

02:00PM

14 BY MS. M. MILLER: (CONTINUING)

02:00PM

15 Q. What is that document that I just gave you, sir?

02:01PM

16 A. This is one of the items that was seized from the
17 search warrant in October of 2016 from the Hansen facilities
18 in Guam, Saipan and in -- also in Georgia.

02:01PM

02:01PM

02:01PM

19 Q. Sir, what is the file that I just gave you?

02:01PM

20 A. The file is tied to N9068F.

02:01PM

21 Q. Does the cover of the file say 9068F?

02:01PM

22 A. Yes.

02:01PM

23 MR. MARTIN: Your Honor, does this have an
24 exhibit number?

02:01PM

02:01PM

25 MS. M. MILLER: 2972.

02:01PM

1 MR. MARTIN: I'm sorry? 02:01PM
2 MS. M. MILLER: 2972. 02:01PM
3 MR. MARTIN: It would be helpful if we could 02:01PM
4 hear these -- 02:01PM
5 THE COURT: Yeah, okay. You got it, 2972? 02:01PM
6 MS. M. MILLER: Yes. 02:01PM
7 THE COURT: All right. Is that right? 02:01PM
8 THE WITNESS: Yes. 02:01PM
9 THE COURT: Okay. 02:01PM
10 BY MS. M. MILLER: (CONTINUING) 02:01PM
11 Q. So that is the file that was seized from where? 02:01PM
12 A. From Hansen facilities. 02:01PM
13 Q. Located where? 02:01PM
14 A. In Guam, Saipan and -- 02:01PM
15 Q. Where was that file seized from, sir? Where was that 02:02PM
16 particular file seized from? 02:02PM
17 A. Here in Guam. 02:02PM
18 Q. Open up that file, please, and tell the members of 02:02PM
19 the jury what you see in that file that was seized from Guam. 02:02PM
20 A. I see -- 02:02PM
21 MR. MARTIN: Your Honor, I object. This is well 02:02PM
22 beyond the scope of my cross-examination. I did not go into 02:02PM
23 this file, I did not talk about this file. 02:02PM
24 THE COURT: Okay. 02:02PM
25 MR. MARTIN: I can't even find -- is this a -- is 02:02PM

1 this in the --

02:02PM

2 MS. MCCONWELL: It's a summary chart -- oh, no --

02:02PM

3 MS. M. MILLER: It's a physical file.

02:02PM

4 MS. MCCONWELL: It's a physical file.

02:02PM

5 THE COURT: Physical file.

02:02PM

6 MR. MARTIN: I never went into this chart. I
7 object to the use of it, Your Honor. It's beyond the scope of
8 cross-examination, and I object.

02:02PM

02:03PM

02:03PM

9 MS. MCCONWELL: Hansen joins.

02:03PM

10 THE COURT: Hansen joins. Okay. Yes?

02:03PM

11 MS. M. MILLER: May I respond?

02:03PM

12 THE COURT: Yes.

02:03PM

13 MS. M. MILLER: Yes, Your Honor.

02:03PM

14 THE COURT: No speaking, just right to the point.

02:03PM

15 MS. M. MILLER: Yes, right to the point.

02:03PM

16 Mr. Martin talked about the fact that that particular
17 helicopter was registered to a company in Vanuatu. However,
18 the file for that particular helicopter was found at Hansen
19 Helicopters here in Guam. That's the point. Any inference
20 that -- well, I'll stop talking.

02:03PM

02:03PM

02:03PM

02:03PM

02:03PM

21 THE COURT: Okay. You want to look at the file;
22 have you seen it?

02:03PM

02:03PM

23 MR. MARTIN: I would like to look at the file.

02:03PM

24 THE COURT: Why don't you let him look at the
25 file?

02:03PM

02:03PM

1	MS. M. MILLER: Sure.	02:03PM
2	THE COURT: Maybe you guys can --	02:03PM
3	MS. M. MILLER: He has seen it.	02:03PM
4	THE COURT: -- stipulate. Go ahead.	02:03PM
5	MS. MCCONWELL: It's still beyond the scope of	02:03PM
6	his cross-examination.	02:03PM
7	THE COURT: Okay. Well, it could very well be.	02:03PM
8	(Pause.)	02:03PM
9	(Counsel conferred.)	02:03PM
10	THE COURT: Yes?	02:04PM
11	MR. MARTIN: If we may approach, Your Honor,	02:04PM
12	there is something --	02:04PM
13	THE COURT: Okay. Why don't you guys talk over	02:04PM
14	there? Maybe you can --	02:04PM
15	MR. MARTIN: No, we have a major problem. That	02:04PM
16	is --	02:04PM
17	THE COURT: We fixed it?	02:04PM
18	MR. MARTIN: -- way beyond the scope.	02:04PM
19	MS. M. MILLER: Really? Okay. Well, I disagree.	02:04PM
20	MR. MARTIN: Turn your mic off, please.	02:04PM
21	MS. M. MILLER: Sorry.	02:04PM
22	THE COURT: Ladies and gentlemen, why don't	02:04PM
23	you -- yeah. Ten minutes, 15 minutes. Keep an open mind.	02:04PM
24	(Jury out at 2:04 p.m.)	02:04PM
25	MR. MARTIN: Your Honor, if I may hand the file	02:05PM

1 to you.

02:05PM

2 THE COURT: Oh, okay. Let me see. Might it
3 explode?

02:05PM

02:05PM

4 MS. M. MILLER: No, it won't explode.

02:05PM

5 MR. MARTIN: The prosecution intends, I believe,
6 to go into the fact that they found a file, contained within
7 that file is a -- what appears to be a data plate.

02:05PM

02:05PM

8 THE COURT: A what?

02:05PM

9 MR. MARTIN: A data plate, that piece of metal --

02:05PM

10 THE COURT: Data plate?

02:05PM

11 MR. MARTIN: Yes. That piece of metal there.

02:05PM

12 THE COURT: Oh, this thing?

02:05PM

13 MR. MARTIN: That thing. My cross-examination
14 never went into data plates at all. There has already been
15 testimony about this file and about that data plate, but not
16 by this witness. And this has nothing whatsoever to do with
17 my cross-examination, Mr. McConwell's cross-examination. But
18 it's specifically for the purpose of adding new evidence in
19 their case-in-chief. And there -- the word "data plate," I
20 promise you -- and we can have Veronica search all day long --
21 never came out of my mouth yesterday, and it never came out of
22 Mr. McConwell's mouth the day before that.

02:05PM

02:05PM

02:05PM

02:05PM

02:05PM

02:05PM

02:06PM

02:06PM

02:06PM

02:06PM

23 THE COURT: Are you trying to get the data plate
24 info out of this file?

02:06PM

02:06PM

25 MS. M. MILLER: Serial number.

02:06PM

1 THE COURT: I mean, you're trying to get the 02:06PM
2 serial number on the data plate? 02:06PM

3 MS. M. MILLER: Yes. Because when Mr. Martin 02:06PM
4 brought up Exhibit 752-52 to this jury, he said to them, What 02:06PM
5 is the registration number of this helicopter? N9068F. What 02:06PM
6 is the serial number associated with that registration? And 02:06PM
7 he had this witness identify the serial number associated with 02:06PM
8 that registration. And the whole point of doing that was, 02:06PM
9 Whirlwide is the registered owner, Whirlwide owns 9068F; 02:06PM
10 that's an asset of Whirlwide with this serial number. What 02:06PM
11 that shows, Your Honor, is when the file for 9068F was seized, 02:07PM
12 No. 1, it was seized in Hansen Helicopters' facility; No. 2, 02:07PM
13 in that file was a serial number associated with 9068F that 02:07PM
14 was not 9068F; that's called evidence of fraud. This is 02:07PM
15 absolutely directly within the scope of Mr. Martin's 02:07PM
16 cross-examination. 02:07PM

17 MR. MARTIN: If I might respond, Your Honor? My 02:07PM
18 cross-examination about 9068F did not deal with what 02:07PM
19 Ms. Miller said. My cross-examination was before I ever went 02:07PM
20 to those charts. My cross-examination went to show that 02:07PM
21 Whirlwide in Guam sold this helicopter to Whirlwide, a Vanuatu 02:07PM
22 corporation. I never talked about the serial number of that 02:07PM
23 helicopter. I never talked about the data plate of that 02:07PM
24 helicopter. I simply talked about that exhibit for the 02:07PM
25 specific purpose, Exhibit No. 752-52 and 752, I believe -54, 02:08PM

1 for that purpose. I mean, they already got into 752-56 which 02:08PM
2 I didn't even use. But this, Your Honor, is so far beyond the 02:08PM
3 scope of what I ever went into, it's just -- it's more 02:08PM
4 case-in-chief stuff. 02:08PM

5 MS. M. MILLER: It's not. 02:08PM

6 THE COURT: Okay. Let me -- okay. So what -- 02:08PM
7 okay. Just so I can understand this, the serial number -- I 02:08PM
8 mean, do you agree that the serial number that's contained in 02:08PM
9 this little plastic Ziploc bag is consistent with the 02:08PM
10 helicopter 9 -- N9085 -- or 9086 -- 02:08PM

11 MS. M. MILLER: 9068F. 02:08PM

12 THE COURT: -- F? 02:08PM

13 MR. MARTIN: I haven't even looked at the serial 02:08PM
14 number, Your Honor. My objection was immediately when I saw 02:08PM
15 it that they're going into a data plate. I never went into 02:08PM
16 data -- 02:09PM

17 THE COURT: What's the significance of a data 02:09PM
18 plate? 02:09PM

19 MS. M. MILLER: The data plate identifies the 02:09PM
20 serial number. Here's -- here is -- 02:09PM

21 THE COURT: I know, but is there a problem -- is 02:09PM
22 there, like, a missing helicopter here? 02:09PM

23 MS. M. MILLER: Yes. Here's the problem -- 02:09PM

24 THE COURT: No, no, wait. We've already -- just 02:09PM
25 a minute. Hold on. 02:09PM

1 MS. M. MILLER: Yes. 02:09PM

2 THE COURT: As I understand it -- 02:09PM

3 MS. M. MILLER: Yes. 02:09PM

4 THE COURT: -- the evidence shows that -- and 02:09PM

5 correct me if I'm wrong -- N908 -- 02:09PM

6 MS. M. MILLER: 9068F. 02:09PM

7 THE COURT: -- F, is the helicopter in question 02:09PM

8 that was sold from Wilma's -- 02:09PM

9 MS. M. MILLER: No. 02:09PM

10 THE COURT: -- one Wilma's to another Wilma's? 02:09PM

11 MS. M. MILLER: Whirlwide to Whirlwide. 02:09PM

12 THE COURT: I mean Whirlwide to Whirlwide. Wait, 02:09PM

13 wait. I mean so that's not an issue? 02:09PM

14 MR. MARTIN: Well, I -- 02:09PM

15 THE COURT: Right, that's not an issue, that -- 02:09PM

16 MS. M. MILLER: Correct, that's not an issue. 02:09PM

17 THE COURT: Wait, wait. The helicopter N9068F 02:09PM

18 was sold from Whirlwide seller in one country to another 02:09PM

19 Whirlwide seller -- another country. Okay. So what's -- 02:09PM

20 what's the relevance of this data plate? 02:09PM

21 MS. M. MILLER: Okay. 02:09PM

22 THE COURT: Why do you need this? 02:09PM

23 MS. M. MILLER: No. 1, every registration number 02:09PM

24 is associated with a specific serial number. 02:10PM

25 THE COURT: Yeah, but, I mean, I don't think 02:10PM

Redirect - Khamvongsa

1 that's an issue, though.

02:10PM

2 MS. M. MILLER: No, it is an issue. Listen to
3 this, Your Honor: The Defendants represented to the FAA that
4 this helicopter, 9068F, with this serial No. 210293S, was its
5 helicopter sold from Hansen to Whirlwide, then from Whirlwide
6 to Whirlwide. What that shows --

02:10PM

02:10PM

02:10PM

02:10PM

02:10PM

7 THE COURT: A different serial number?

02:10PM

8 MS. M. MILLER: It shows a different serial
9 number --

02:10PM

02:10PM

10 THE COURT: Yeah, okay.

02:10PM

11 MS. M. MILLER: -- because it is consistent with
12 the government's theory of the case that the defendants
13 violated the law by creating and using serial numbers that did
14 not belong to the registration number.

02:10PM

02:10PM

02:10PM

02:10PM

15 So the fact that Mr. Martin yesterday said,
16 "Let's look at Exhibit 9068F[sic], this registration number,
17 and what is the serial number," he had, this witness, identify
18 the serial number not once, but twice.

02:10PM

02:10PM

02:11PM

02:11PM

19 THE COURT: I got it.

02:11PM

20 MS. M. MILLER: Yeah.

02:11PM

21 THE COURT: I got it.

02:11PM

22 MR. MARTIN: Your Honor, I did not have him
23 identify it, I do not believe, and I would ask that we check
24 that.

02:11PM

02:11PM

02:11PM

25 MS. M. MILLER: We should.

02:11PM

1 MR. MARTIN: I do not believe that I had the 02:11PM
2 witness identify it. 02:11PM

3 MS. M. MILLER: We should. 02:11PM

4 THE COURT: Wait, let him finish. 02:11PM

5 MR. MARTIN: She's been wrong before about what I 02:11PM
6 said. 02:11PM

7 THE COURT: Let him finish because he didn't 02:11PM
8 interrupt you. For once, you guys cut it out. Go ahead. 02:11PM

9 MR. MARTIN: I -- this was not part of the, 02:11PM
10 quote, "two-hour part." This was at the very beginning of my 02:11PM
11 cross-examination. 02:11PM

12 THE COURT: I thought you guys were going to stop 02:11PM
13 about that two-hour stuff. 02:11PM

14 MR. MARTIN: Well, I'm just trying to put it in 02:11PM
15 reference. I'm not trying to criticize anyone, okay? I'm 02:11PM
16 just trying to put it in reference to my cross-examination. 02:11PM
17 At the very beginning of the cross-examination -- 02:11PM

18 THE COURT: No, no. The question is, You said 02:11PM
19 you never asked for the serial number. 02:11PM

20 MR. MARTIN: On this particular exhibit, yes, 02:11PM
21 Your Honor, I do not believe. 02:11PM

22 THE COURT: All right. Let's check it out. 02:11PM

23 MR. MARTIN: It would be -- 02:11PM

24 THE COURT: Let's check it out. I never listen 02:12PM
25 to lawyers, I only listen to my court reporter. Go ahead, 02:12PM

1 Veronica. You want to help guide her? 02:12PM

2 (Whereupon, the reporter read back the requested 02:12PM
3 portion.) 02:15PM

4 MR. MARTIN: Your Honor, that was a portion of my 02:15PM
5 question. That's where I was talking about yesterday where I 02:15PM
6 was showing that Whirlwide sold to Whirlwide. And I stand 02:15PM
7 corrected, I did say "serial number," obviously. 02:15PM

8 THE COURT: Okay. 02:15PM

9 MR. MARTIN: But I still say it's beyond the 02:15PM
10 scope in that the -- it was used to identify that particular 02:15PM
11 document. 02:15PM

12 THE COURT: Okay. So I have a question. The -- 02:15PM
13 I can't remember, but was there prior testimony that these 02:15PM
14 data plates are what -- are what? Are on the helicopters? 02:15PM
15 They're like -- 02:15PM

16 MS. M. MILLER: Yes. 02:15PM

17 THE COURT: Like... 02:15PM

18 MS. M. MILLER: They're riveted -- 02:15PM

19 THE COURT: Put into -- it's almost like a VIN 02:15PM
20 number. 02:15PM

21 MS. M. MILLER: Correct. They're -- they are. 02:15PM
22 That's exactly correct. 02:15PM

23 THE COURT: Well, I'm just trying to remember if 02:15PM
24 I recalled that somebody testified to that. 02:15PM

25 MS. M. MILLER: You do. That was -- 02:16PM

1 THE COURT: That was, like, weeks ago. 02:16PM

2 MS. M. MILLER: Mr. Breitzman, the MD 02:16PM

3 Helicopters -- 02:16PM

4 THE COURT: Right. Okay, I remember -- okay. I 02:16PM
5 remember somebody testifying to that. 02:16PM

6 MR. MARTIN: There has been previous testimony 02:16PM
7 about this -- 02:16PM

8 THE COURT: I'm sorry. Mr. Martin, I don't think 02:16PM
9 you're on a -- okay. I'm sorry. All right. Hold on. What 02:16PM
10 were you saying, Mr. Martin? 02:16PM

11 MR. MARTIN: I was saying, I believe -- and I may 02:16PM
12 by mistaken, but I believe there's already been previous 02:16PM
13 testimony about this exhibit. 02:16PM

14 THE COURT: About this data plate -- 02:16PM

15 MR. MARTIN: Yes. 02:16PM

16 THE COURT: -- in particular? 02:16PM

17 MR. MARTIN: I think Mr. Prozac[sic], and I may 02:16PM
18 be -- I may be incorrect, but one of the witnesses 02:16PM
19 testified -- 02:16PM

20 THE COURT: I don't think his name is Prozac. 02:16PM

21 MS. M. MILLER: It's Prozik, Your Honor. 02:16PM

22 MR. MARTIN: Prozik. Yes. 02:16PM

23 MS. M. MILLER: I mean, you take Prozac, but 02:16PM
24 Prozik was the testifier. 02:16PM

25 THE COURT: He probably wants to change his name. 02:16PM

1 MS. M. MILLER: Anyway, Your Honor, obviously 02:16PM
2 this is within the scope. Obviously this is an important 02:16PM
3 piece of evidence for the government because it shows that the 02:16PM
4 serial number that was identified in the file folder that 02:16PM
5 Hansen Helicopters had for this particular helicopter was a 02:16PM
6 different serial number than what it represented to the FAA. 02:16PM
7 That is right in line with our allegations in this case, and 02:17PM
8 it right in line with the cross-examination. So I would ask 02:17PM
9 permission for us to get the jury back and keep going. 02:17PM

10 THE COURT: Yep. 02:17PM

11 MR. MARTIN: Your Honor, they just used a chart, 02:17PM
12 Government's Chart 15 -- 1252-9. 02:17PM

13 MS. MCCONWELL: It's actually -- 02:17PM

14 THE COURT: I'm sorry? 02:17PM

15 MS. MCCONWELL: I think -- 02:17PM

16 THE COURT: You have to speak into the mic, I 02:17PM
17 can't hear you. Are you talking to him? 02:17PM

18 MS. MCCONWELL: 1252-18. 02:17PM

19 THE COURT: Okay. What about it? What about 02:17PM
20 that? 02:17PM

21 MR. MARTIN: Well, that -- that exhibit we just 02:17PM
22 had deals with this one and -- this exhibit, and the serial 02:17PM
23 number on there is the serial number that is 210293S, which is 02:17PM
24 what Ms. Miller wrote up there. 02:17PM

25 MS. M. MILLER: That's the whole point. What was 02:17PM

1 represented to the FAA is the serial number is not the serial
2 number in the file for 9068F when it was seized from Hansen
3 Helicopters.

4 MR. MARTIN: It's never been changed, Your Honor.
5 The serial number on the helicopter has never been changed.
6 That is in the file, but that serial number has never been
7 represented as being a helicopter.

8 MS. M. MILLER: Your Honor.

9 THE COURT: I'm sorry. Wait. That serial number
10 is not -- is not -- is not together with N9068F?

11 MR. MARTIN: May I borrow that a second? Sorry.
12 Okay. Correct, Your Honor. That serial -- that data plate
13 may have been found in that file, but all the records that the
14 government has introduced, including their summary chart,
15 reflect that the helicopter 9068F has consistently had the
16 serial number 210293S. And that's reflected in their last
17 exhibit.

18 MS. M. MILLER: And the summary chart, Your
19 Honor, is a summary chart of the FAA records. The FAA
20 records, Your Honor, are the data in the FAA that was given to
21 the FAA by Jon Walker. Jon Walker certified under penalty of
22 being prosecuted that that serial number belonged to that
23 helicopter. However, when we seized that file, we had a
24 baggie --

25 THE COURT: All right. I got it.

1 MS. M. MILLER: Yes. 02:19PM

2 THE COURT: I figured it out. 02:19PM

3 MS. M. MILLER: Thank you. Can we -- 02:19PM

4 THE COURT: Listen. So it seems like you got 02:19PM

5 this folder here, or file, that has been testified to as 02:19PM

6 having been seized at the Hansen Helicopters Corporation. 02:19PM

7 MS. M. MILLER: Correct. 02:19PM

8 THE COURT: And the documents indicate that the 02:19PM

9 helicopter N9068F, at least the paperwork I'm reading here, 02:19PM

10 you're right, is consistent with the 21 -- that particular 02:19PM

11 serial number. But we've got this data plate that's in a 02:20PM

12 plastic baggie with a -- 02:20PM

13 MS. M. MILLER: Serial number. 02:20PM

14 THE COURT: -- a serial number -- 02:20PM

15 MS. M. MILLER: That's different. 02:20PM

16 THE COURT: -- with a magic marker over the 02:20PM

17 plastic baggie that's, I guess, trying to say that this is -- 02:20PM

18 I'm not sure -- how do I know -- I guess the question is, How 02:20PM

19 do I know that this -- 02:20PM

20 MR. MARTIN: You don't. 02:20PM

21 MS. MCCONWELL: You don't. 02:20PM

22 THE COURT: Here's my question -- okay. I'm 02:20PM

23 sorry. How do I know or how does the jury know that this data 02:20PM

24 plate actually belongs to N9068F? It's in a plastic baggie 02:20PM

25 that says that, but how do we know it actually belongs -- 02:20PM

Redirect - Khamvongsa

1 MS. M. MILLER: It was in the plastic baggie that 02:20PM
2 said that in the file that had on its cover 9068F that was 02:20PM
3 seized from Hansen Helicopters pursuant to the search and 02:20PM
4 seizure. And, Your Honor, if you look -- 02:20PM
5 THE COURT: Wait, wait. This file? This file? 02:20PM
6 MS. M. MILLER: Yes. If you look at this 02:21PM
7 everything in that file -- 02:21PM
8 THE COURT: Yeah. 02:21PM
9 MS. M. MILLER: -- every single piece of paper 02:21PM
10 references 9068F. 02:21PM
11 THE COURT: Right. 02:21PM
12 MS. M. MILLER: Everything. 02:21PM
13 THE COURT: No, I know that. But my -- 02:21PM
14 MS. M. MILLER: That's how we know. 02:21PM
15 THE COURT: No, I know. But my question is, How 02:21PM
16 do I know or will the jury know that this data plate that has 02:21PM
17 this other serial number, which you believe is the original 02:21PM
18 serial number -- 02:21PM
19 MS. M. MILLER: Oh, I'm not saying that I believe 02:21PM
20 that's the original serial number. May I tell you what I 02:21PM
21 believe based on the evidence? 02:21PM
22 THE COURT: No, no. Here's my question. How 02:21PM
23 would the jury know that this data plate belongs to that 02:21PM
24 particular helicopter? 02:21PM
25 MS. M. MILLER: It's in its file. 02:21PM

1 THE COURT: Wait, wait. Okay. 02:21PM

2 MS. M. MILLER: The 9068F file, everything in 02:21PM
3 there is related to 9068F. 02:21PM

4 THE COURT: The data plate is in the file. 02:21PM
5 Right. I got that. 02:21PM

6 MS. M. MILLER: And it's in the baggie with 9068F 02:21PM
7 on there. And if you look in that file, the defendants 02:21PM
8 represented to the FAA that N9068F sunk to the bottom of the 02:21PM
9 ocean after it was involved in an accident that killed 02:22PM
10 Mr. Santos. They also represented to the FAA that the 02:22PM
11 airworthiness certificate and the registration for 9068F was 02:22PM
12 lost. None of that is true. That file has the original 02:22PM
13 airworthiness certificate. It has the issued airworthiness 02:22PM
14 certificate from Tim Cislo. It has the registration paperwork 02:22PM
15 that the defendants said was lost at sea. It has proof that 02:22PM
16 the helicopter was not lost at sea; it was retrieved. And 02:22PM
17 that is one of the helicopters that we found at Rogers' 02:22PM
18 facility that the defendants were going to patch back together 02:22PM
19 and put a new data plate on with a different serial number and 02:22PM
20 continue operating it just like they have with the other 02:22PM
21 helicopters in this case. 02:23PM

22 THE COURT: And essentially, if it was lost at 02:23PM
23 sea, you wouldn't be having the data plate -- 02:23PM

24 MS. M. MILLER: Exactly. It was a lie. 02:23PM

25 THE COURT: Well, okay. 02:23PM

1 MS. M. MILLER: Fraud. That's the whole thing 02:23PM
2 we're trying to prove here, Your Honor. 02:23PM

3 THE COURT: No, no, I'm trying to put the points 02:23PM
4 together. You guys know this better than I do. Go ahead. 02:23PM

5 MR. MARTIN: Nothing she just said, Your Honor, 02:23PM
6 goes to the -- to the scope of my cross-examination. My -- 02:23PM

7 MS. M. MILLER: But -- 02:23PM

8 MR. MARTIN: May I finish, please? 02:23PM

9 THE COURT: Yeah, let him finish. 02:23PM

10 MR. MARTIN: I mean, I never brought up anything 02:23PM
11 about lost at sea or helicopter -- or the airworthiness 02:23PM
12 certificate or anything else. 02:23PM

13 THE COURT: It sounds like what she's saying, 02:23PM
14 though -- 02:23PM

15 MR. MARTIN: I know what she's saying. I'm 02:23PM
16 sorry, Judge, I didn't mean to interrupt you. 02:23PM

17 THE COURT: What she's saying is that the 02:23PM
18 representation of the serial number by Mr. Walker or whoever 02:23PM
19 submitted the paperwork as to that -- as to that helicopter 02:23PM
20 is -- is not the actual serial number. 02:23PM

21 MR. MARTIN: She's saying that, what's in your 02:24PM
22 hand -- 02:24PM

23 THE COURT: She's saying this is the actual 02:24PM
24 serial number of the original. 02:24PM

25 MR. MARTIN: No. She's saying that is not the 02:24PM

1 actual serial number. This number here, the 210293S, is the
2 actual serial number. That's what I read yesterday. I think
3 we're in agreement that that's the actual serial number.
4 She's -- what she's saying is, in the file, they found that
5 one, and then she's going to bootstrap from there that this is
6 a different helicopter. I never went into that data plate. I
7 never went into any information relating to that, Your Honor.
8 I specifically went into Whirlwide Guam selling this
9 helicopter to Whirlwide Vanuatu.

10 THE COURT: Okay. I'm sorry. Wait. So I'm just
11 looking at -- just let me get this in perspective. The
12 affidavit of lost certificate says that on September 2, 2015,
13 N9068F, a Hughes serial No. 210293S was crashed at sea and
14 subsequently sank. All right. And then all of its
15 certificates of airworthiness, etc., were lost with the
16 aircraft. So they're saying that that was the original
17 helicopter, but now -- now this is -- this is a new one?

18 MS. M. MILLER: No.

19 THE COURT: This is a new number that went in?

20 MS. M. MILLER: Yes. This shows the defendants'
21 intent to do what its modus operandi we've seen throughout
22 this case --

23 THE COURT: Okay. So the original one was
24 210293S --

25 MS. M. MILLER: Correct.

1 THE COURT: -- originally attached to the 02:25PM
2 original -- to the helicopter? 02:25PM
3 MS. M. MILLER: Correct. Correct. 02:25PM
4 THE COURT: In terms of original serial number. 02:25PM
5 MS. M. MILLER: Correct. 02:25PM
6 THE COURT: This is like somebody made this new 02:25PM
7 data plate? 02:25PM
8 MS. M. MILLER: Correct. 02:25PM
9 THE COURT: Okay. 02:25PM
10 MS. M. MILLER: That's -- that's one of the overt 02:25PM
11 acts that's we've alleged; that's something that we 02:25PM
12 established repeatedly. 02:25PM
13 MR. MARTIN: I understand that's their theory. 02:25PM
14 That's not within the scope of my cross, Your Honor. My cross 02:25PM
15 dealt with the transfer from Whirlwide Guam to Whirlwide 02:26PM
16 Vanuatu. That serial number over there, I never had that 02:26PM
17 file. I never used that file. That file, I don't -- I have a 02:26PM
18 copy of it somewhere, but I -- I never questioned anything 02:26PM
19 about the file that she's trying to question him about. 02:26PM
20 THE COURT: Yeah, but her point is that -- that a 02:26PM
21 fraud was -- alleged fraud was committed. 02:26PM
22 MS. M. MILLER: Correct. And, Your Honor -- 02:26PM
23 MR. MARTIN: They already presented -- 02:26PM
24 THE COURT: Wait, wait. You guys -- I just need 02:26PM
25 to talk -- just shh, everybody. Go ahead. You don't have to 02:26PM

1 talk to me.

02:26PM

2 MS. M. MILLER: Thank you.

02:26PM

3 THE COURT: Mr. Martin.

02:26PM

4 MR. MARTIN: Your Honor, I understand their
5 theory. And I understand they've already presented this
6 evidence through another witness, not through --

02:26PM

02:26PM

7 THE COURT: Mm-hmm. So your objection now is
8 cumulative?

02:26PM

02:26PM

9 MR. MARTIN: Well, no. My objection is his
10 testimony about it, No. 1, is beyond the scope. And it could
11 be cumulative, but the major objection is, I never went into
12 the subject matter that she is trying to bring out now.
13 They've already -- as I said, they've already had another
14 witness testify about the very substance of this.

02:26PM

02:26PM

02:26PM

02:26PM

02:27PM

02:27PM

15 MS. M. MILLER: He went into the serial number
16 more than once.

02:27PM

02:27PM

17 THE COURT: I got it. Yeah, you don't have to --
18 yes, Ms. McConwell.

02:27PM

02:27PM

19 MS. MCCONWELL: Your Honor, she's trying to
20 bootstrap this into the thing. Finding a -- a data plate in a
21 baggie in that file when it's seized doesn't -- yeah, doesn't
22 mean that -- I mean --

02:27PM

02:27PM

02:27PM

02:27PM

23 MS. M. MILLER: Goes to the weight.

02:27PM

24 MS. MCCONWELL: We don't know why that was in
25 that file.

02:27PM

02:27PM

1 MS. M. MILLER: Goes to the weight. 02:27PM

2 THE COURT: Okay -- 02:27PM

3 MS. MCCONWELL: And it wasn't affixed to the 02:27PM
4 helicopter. 02:27PM

5 MS. M. MILLER: Goes to the weight. 02:27PM

6 THE COURT: All right. I agree. I think it does 02:27PM
7 go to the weight of the evidence. I think you can guys can 02:27PM
8 argue this away. First of all, it's in a little trash -- a 02:27PM
9 little plastic baggie, and it's not like it's got, you know -- 02:27PM
10 what do you call it? Permanent identifying numbers on the 02:27PM
11 data plate itself. Like, what is the exact helicopter; does 02:27PM
12 it say? 02:27PM

13 MS. M. MILLER: There are. 02:27PM

14 MS. MCCONWELL: The serial number does not -- 02:27PM

15 THE COURT: No, no. There is a serial number 02:27PM
16 here. I'm just saying on the data plate itself. Might be in 02:28PM
17 another record, I'm guessing. But on the data plate itself, 02:28PM
18 it doesn't say N9 -- 02:28PM

19 MS. M. MILLER: Correct. 02:28PM

20 THE COURT: Okay. That's what I'm saying. 02:28PM

21 MS. M. MILLER: Correct. 02:28PM

22 THE COURT: So to -- to connect it to that 02:28PM
23 helicopter by virtue of, No. 1, it's in the file, and you 02:28PM
24 can -- you can make an inference that's what they're going to 02:28PM
25 try to argue. 02:28PM

1 MS. M. MILLER: Right.

02:28PM

2 THE COURT: You guys can argue away just as
3 strongly that, hey, it is in a little plastic baggie, somebody
4 could have just put it on a -- take the little black marker
5 and put down the -- the helicopter number.

02:28PM

02:28PM

02:28PM

02:28PM

6 So -- and so -- okay. So in terms of beyond the
7 scope, the Court will overrule the objection and allow the
8 question.

02:28PM

02:28PM

02:28PM

9 MS. M. MILLER: May I have the file back, Your
10 Honor?

02:28PM

02:28PM

11 THE COURT: Sure. Now I know a lot about data
12 plates. Okay. Let's go. Let's take -- let me let my staff
13 take a ten-minute recess and then we'll come back.

02:28PM

02:28PM

02:28PM

14 MS. M. MILLER: Yes, Your Honor.

02:28PM

15 THE COURT: Let's try to get this witness done
16 with, team.

02:28PM

02:28PM

17 MS. M. MILLER: If we have to keep going back to
18 the transcript...

02:28PM

02:28PM

19 MS. MCCONWELL: So, Your Honor --

02:29PM

20 THE COURT: Yes? The Court is overruling the
21 objection at this time. I'm going to allow her to -- to ask
22 questions regarding that.

02:29PM

02:29PM

02:29PM

23 MS. MCCONWELL: I understand.

02:29PM

24 THE COURT: But you guys can make your argument
25 to the jury that, well, it just doesn't hold true.

02:29PM

02:29PM

1 MS. MCCONWELL: Okay. My last one is, it's not 02:29PM
2 relevant to anything that's in Count 99 through 110, which is 02:29PM
3 what this -- 02:29PM

4 MS. S. MILLER: Conspiracy. 02:29PM

5 MS. MCCONWELL: -- this witness is about, even if 02:29PM
6 you look at their paragraphs. 02:29PM

7 THE COURT: Okay. Very well. The Court will 02:29PM
8 overrule the objection. Ten minutes, Counsels. And I will 02:29PM
9 make my ruling, too, with regard to the -- 02:29PM

10 MS. M. MILLER: The two pages on the bank 02:29PM
11 records? 02:29PM

12 THE COURT: Yes, yes. The Court has been 02:29PM
13 reviewing cases, my law clerks have been looking at it 02:29PM
14 carefully. So the Court is inclined to allow that questioning 02:29PM
15 in. 02:29PM

16 MS. M. MILLER: Yes, Your Honor. 02:29PM

17 THE COURT: And I'll cite to some of the cases 02:29PM
18 that we've looked at in the different circuits. 02:29PM

19 MS. M. MILLER: Yes, Your Honor. 02:29PM

20 THE COURT: So that means that he can be called 02:29PM
21 back. But why don't we finish -- 02:29PM

22 MS. M. MILLER: I don't have to call him back 02:30PM
23 now, I'll just ask while he's on here. 02:30PM

24 THE COURT: Oh, that's right. Okay. That's 02:30PM
25 fine. But are you almost done with him? 02:30PM

1 MS. M. MILLER: Yeah. 02:30PM

2 THE COURT: Okay. Let's go ten minutes. Staff, 02:30PM

3 you guys can, you know, go use the restroom. 02:30PM

4 (Recess taken at 2:30 p.m.) 02:30PM

5 (Back on the record at 2:48 p.m.) 02:48PM

6 THE COURT: Okay. We'll -- everybody ready? 02:48PM

7 We'll call in the jury? 02:49PM

8 MS. M. MILLER: Yes, Your Honor. 02:49PM

9 THE COURT: All right. Okay. While we're 02:49PM

10 waiting for the jury, let me just make -- let me just tell 02:49PM

11 you, the Court has reviewed some of the cases, and let me just 02:49PM

12 say, the Court finds that Paragraph 127 of the Second 02:49PM

13 Superseding Indictment which contains the language, quote, 02:50PM

14 "numerous shell corporations of defendants, including but not 02:50PM

15 limited to," dot dot dot, "in conjunction with the discovery 02:50PM

16 in this case has given sufficient notice to defendants that 02:50PM

17 they would have to defend against the theory of conspiracy to 02:50PM

18 commit wire fraud that included Pacific Spotters." 02:50PM

19 The Court further finds that pursuant to Federal 02:50PM

20 Rule of Evidence 104(b), that the jury could reasonably find 02:50PM

21 that Pacific Spotters is an alter ego of Defendant Hansen 02:50PM

22 Helicopters, and as such, the relevancy objection to 02:50PM

23 Exhibit G-2939082[sic] and 3 -- 83 is overruled. The United 02:50PM

24 States' motion to allow redacted G-2939, Pages 82 and 83 ECF 02:50PM

25 No. 1699 is denied as moot. That will be the Court's order. 02:50PM

1 And the Court will -- with regard to the cases, I
2 looked at *United States v. Cardel*, Fifth Circuit, No. 896051;
3 *U.S. v. McGill*, 359 F. App'x 56, 2010, U.S. App. Lexis 34.
4 And that's M-C-G-I-L-L; *United States v. Williams*, United
5 States Court of Appeals from the Eleventh Circuit; 785 F.
6 App'x 6922019 U.S. App. Lexis 25073.

7 And finally -- okay, please rise for the jury.

8 (Jury in at 2:51 p.m.)

9 THE COURT: *United States v. Stavroulakis*,
10 S-T-A-V-R-O-U-L-A-K-I-S, U.S. Court of Appeals for the Second
11 Circuit, 952 F. 2d 686 (1992), U.S. App Lexis 165; and *U.S. v.*
12 *Johnson*, U.S. District Court for the District of Utah,
13 Reporter 2015 U.S. District Lexis 145102.

14 Okay. Please be seated, ladies and gentlemen.

15 That will be the Court's order.

16 Okay. We'll continue on. You may proceed.

17 MS. M. MILLER: Yes, Your Honor. Thank you.

18 BY MS. M. MILLER: (CONTINUING)

19 Q. Special Agent Khamvongsa, can I refer you back to the
20 file folder for N9068F that was seized from Hansen Helicopters
21 facility here in Guam.

22 A. Ms. Miller, the file is still up there.

23 Q. Let me hand it to you.

24 MS. M. MILLER: May I approach the witness, Your
25 Honor?

1 THE COURT: (Nodded head.) 02:52PM

2 THE WITNESS: Thank you. 02:52PM

3 BY MS. M. MILLER: (CONTINUING) 02:52PM

4 Q. Sir, can you tell the members of the jury if you see 02:52PM
5 a baggie in that file with 9068F on it. 02:52PM

6 A. Yes. 02:52PM

7 Q. And is there a serial number on a data plate in that 02:52PM
8 baggie for 9068F? 02:52PM

9 A. Yes. 02:52PM

10 Q. Can you read the serial number that is on that -- in 02:52PM
11 that baggie. 02:53PM

12 A. 700239S. 02:53PM

13 Q. Is there also an affidavit in that file regarding 02:53PM
14 9068F? 02:53PM

15 A. Yes. 02:53PM

16 Q. What does that affidavit indicate? 02:53PM

17 A. It's an affidavit of lost certificate. 02:53PM

18 Q. And what does it say? 02:53PM

19 A. It says, "This is to certify that Whirlwide 02:53PM
20 Helicopters, Inc., does not possess the aircraft registration 02:53PM
21 certificate of N9068F, a Hughes 369HS Serial No. 210293S, 02:53PM
22 issued on May 28th, 2008, or any aircraft registration 02:53PM
23 certificate for N9068F because of the following circumstances: 02:53PM
24 On September 2nd, 2015, N9068F, a Hughes 369HS Serial 02:53PM
25 No. 210293S, crashed at sea and subsequently sank. The 02:54PM

1 aircraft's registration and certificate of airworthiness were 02:54PM
2 lost with the aircraft." 02:54PM
3 Q. The affidavit is dated what date? 02:54PM
4 A. March 4th, 2016. 02:54PM
5 Q. And it says the aircraft registration -- the 02:54PM
6 airworthiness certificate first; correct? 02:54PM
7 A. Certificate of airworthiness; yes. 02:54PM
8 Q. The registration? 02:54PM
9 A. Yes. 02:54PM
10 Q. And the aircraft itself, right? 02:54PM
11 A. Yes. 02:54PM
12 Q. All lost at sea; is that correct? 02:54PM
13 A. Yes. 02:54PM
14 Q. Can you tell the members of the jury, do you see the 02:55PM
15 airworthiness certificate in that file, sir? 02:55PM
16 A. Yes, it's right here. 02:55PM
17 Q. So is it lost at sea? 02:55PM
18 A. No. 02:55PM
19 Q. Do you see the registration in that file, sir? 02:55PM
20 A. Yes, it's right here. 02:55PM
21 Q. So is it lost at sea? 02:55PM
22 A. No. 02:55PM
23 Q. And even though they say that the aircraft sunk to 02:55PM
24 the bottom of the ocean, do you see evidence that that 02:55PM
25 aircraft was also not lost at sea? 02:55PM

Redirect - Khamvongsa

1 A. Yes. 02:55PM

2 Q. What do you see? 02:55PM

3 A. I see the data plate that has the same serial number 02:55PM

4 of 2102934 -- 34S, as well as the work being done at Vanguard 02:55PM

5 Aviation, which is listed -- which is right here in this file. 02:55PM

6 Q. Yesterday, Mr. McCon -- Mr. Martin also asked you to 02:55PM

7 read to the jury a registration for an aircraft that was 02:56PM

8 identified as N74AM, and I would like you to look at 02:56PM

9 Exhibit 366, Page 23. Do you see that, sir? 02:56PM

10 A. Yes. 02:56PM

11 Q. Do you remember Mr. Martin asking you about that 02:56PM

12 yesterday? 02:57PM

13 A. Yes. 02:57PM

14 Q. And what company -- 02:57PM

15 MS. M. MILLER: Ms. Miller, if you go down to the 02:57PM

16 next section. 02:57PM

17 BY MS. M. MILLER: (CONTINUING) 02:57PM

18 Q. What company is identified as the registered owner of 02:57PM

19 this particular aircraft? 02:57PM

20 A. Can you scroll down, please? 02:57PM

21 Q. She's going to do that in a moment. 02:57PM

22 A. Okay. Fling Air, Inc. 02:57PM

23 Q. And what's the address of Fling Air, Inc? 02:57PM

24 A. PO Box 9099, Tamuning, Guam, the same address as 02:57PM

25 Hansen Helicopters. 02:57PM

Redirect - Khamvongsa

1 Q. And remember, yesterday and today, you saw that
2 Exhibit 829 shows Fling Air, Inc., as being a Vanuatu company?

3 A. Yes.

4 Q. Okay. Now, what is the serial number of N74AM on
5 this document?

6 A. 1250790S.

7 Q. All right. Now, I would like you to look at what was
8 previously entered into evidence as Government's Exhibit 204.
9 And, to remind the jury, this was already admitted, and I'm
10 going to wait until it comes up for the jury.

11 Okay. And what is the subject of this e-mail?

12 A. E-mailing Hansen Helicopters aircraft registrations,
13 October 20th, 2015.

14 Q. Now, I'd like you to go to Page 9 of Exhibit 204,
15 please. And could you tell the members of the jury whether
16 you see on Page 9 of Exhibit 204 a reference to Fling Air and
17 the aircraft identified as N74AM. And Ms. Miller will hone in
18 on that page for you.

19 MS. M. MILLER: And it's on Row 79, Ms. Miller.
20 Page 9, Row 79. Is there a way to pull that out even further?

21 THE WITNESS: I see it.

22 MS. M. MILLER: I can't see it. (Laughing.) Can
23 we hone in on that more, or is that the best we can do? There
24 we go. Okay.

25 BY MS. M. MILLER: (CONTINUING)

1 Q. So do you see Row 79, Special Agent Khamvongsa? 03:00PM
2 A. Yes. If I may, can I mark it just so -- 03:00PM
3 Q. I'm sorry? 03:00PM
4 A. May I mark it? 03:00PM
5 Q. Yes, please. If you could just circle it to make it 03:00PM
6 easier to see. 03:00PM
7 A. (Witness marked the exhibit.) 03:00PM
8 Fling Air is right there where the yellow circle is. 03:00PM
9 Q. Yes. Perfect. And can you also circle the N 03:00PM
10 registration number for Fling Air on this document? 03:00PM
11 A. (Witness complied.) 03:00PM
12 Q. There we go. And can you also circle the serial 03:00PM
13 number associated with that N number? 03:00PM
14 A. (Witness complied.) 03:00PM
15 Q. And is that consist with what I wrote on the board 03:00PM
16 that the Defendant Jon Walker represented to the FAA was the 03:01PM
17 serial number for this particular aircraft? 03:01PM
18 A. Yes. 03:01PM
19 Q. Now I'd like you to look at Page 10 of this exhibit, 03:01PM
20 Hansen Helicopters registration fleet information. And when 03:01PM
21 we get to Page 10, I'd like to bring your attention to 03:01PM
22 Row 161. Thank you. Do you see N74AM? 03:01PM
23 A. Yes. 03:02PM
24 Q. And could you read that, what it says there. First 03:02PM
25 of all, the title of this section of the Hansen Helicopters 03:02PM

Redirect - Khamvongsa

1 registration information for their aircraft is entitled what?

03:02PM

2 A. "Problem Children."

03:02PM

3 Q. And now can you read what is on this document
4 regarding N74AM?

03:02PM

03:02PM

5 A. "This aircraft was changed into N74AM. Have
6 paperwork for recertification of new air frame."

03:02PM

03:02PM

7 Q. What is the serial number that is now going to be
8 associated with N74AM because it needed a new air frame and it
9 was now going to be associated with a different serial number?

03:02PM

03:02PM

03:02PM

10 A. 590102E.

03:02PM

11 Q. Do you recall the testimony of Mr. Breitzman?

03:03PM

12 A. I do recall his -- his testimony.

03:03PM

13 Q. How many serial numbers can be associated with a
14 helicopter?

03:03PM

03:03PM

15 A. One; it's like a car VIN.

03:03PM

16 Q. All right. Sir, now let's talk about another
17 helicopter that Mr. Martin questioned you about, and that is
18 N454S. Do you recall those questions?

03:03PM

03:03PM

03:03PM

19 A. I recall being questioned.

03:03PM

20 Q. Okay. What counts does N454S pertain to?

03:03PM

21 A. Counts 100 and 102.

03:03PM

22 Q. Okay. And let's look at the contract for that
23 particular helicopter. And that was entered into evidence as
24 Exhibit 2900-3280.

03:03PM

03:04PM

03:04PM

25 MS. M. MILLER: And, Ms. Miller, can you hone in

03:04PM

1 on the top portion of that contract, please.

03:04PM

2 BY MS. M. MILLER: (CONTINUING)

03:04PM

3 Q. Who is identified as the lessor of this helicopter?

03:04PM

4 A. Wilma's Flight Service, Inc.

03:04PM

5 Q. Do you remember who the registered owner of the
6 helicopter was according to what Mr. Walker sent to the FAA?

03:04PM

03:04PM

7 A. I believe it was Eddie's or -- Eddie's, and it
8 changed over to Dave's.

03:04PM

03:04PM

9 Q. Well, let's make sure it's absolutely correct.

03:04PM

10 MS. M. MILLER: Ms. Miller, could we go to
11 Exhibit 1252, the registration information regarding this
12 helicopter, N454S.

03:04PM

03:04PM

03:04PM

13 BY MS. M. MILLER: (CONTINUING)

03:05PM

14 Q. Okay. So tell the members of the jury, please, who
15 is the first registered owner of this helicopter?

03:05PM

03:05PM

16 A. Hansen Helicopters, Inc.

03:05PM

17 Q. And then who is the registered owner after that?

03:05PM

18 A. Eddie Air, Inc.

03:05PM

19 Q. And then who is the registered owner after that?

03:05PM

20 A. Dave's Helicopter Service.

03:05PM

21 Q. And who is the individual who was registering and
22 reregistering this helicopter with the FAA under all these
23 different names?

03:05PM

03:05PM

03:05PM

24 A. Defendant Jon Walker.

03:05PM

25 Q. When this helicopter was leased by Wilma's Flight

03:06PM

1 Service and the money came in, what account was the money
2 deposited into?

3 A. Caledonian Agency, Inc., bank account.

4 Q. When you traced the money from Caledonian Agency,
5 where did it go after it left the bank account of Caledonian
6 Agency?

7 A. It went into Hansen Northern Helicopters' bank
8 account --

9 MR. MARTIN: Your Honor, may I enter an
10 objection? We're going way beyond cross. I never mentioned
11 bank accounts, I didn't go into any type of money on this.
12 This is way beyond -- this is just a re -- re-examination.

13 MS. M. MILLER: May I respond?

14 THE COURT: Wait just a minute. Any other
15 objections?

16 MR. MARTIN: Cumulative.

17 THE COURT: Yeah. Okay. Beyond -- well, first
18 of all, beyond the scope. And then cumulative? So is it --

19 MR. MARTIN: Well, he's redoing what he's already
20 done. I mean, this is his direct examination, again.

21 MS. M. MILLER: Mr. Martin cross-examined this
22 witness on these counts. And Mr. Martin, in cross-examining
23 the witness on these counts, brought to the witness's
24 attention and to the jury that this helicopter was registered,
25 it was leased, and didn't the tuna boat companies get what

1 they bargained for.

2 Mr. McConwell brought in Defense Exhibit 66,
3 which was an excerpt of the GAO report showing that one of the
4 ways in which companies --

5 THE COURT: You don't have to explain it. I know
6 what it said.

7 MS. M. MILLER: Okay.

8 THE COURT: Go ahead. And therefore...

9 MS. M. MILLER: And therefore, this is relevant,
10 Your Honor, to show the stacked ownership, complex business
11 relationships --

12 THE COURT: You're trying to show what the GAO
13 report shows?

14 MS. M. MILLER: Yes. It ties into -- first of
15 all, it's within the scope of Mr. Martin questioning about
16 these counts, because he did question him about these counts.

17 THE COURT: Uh-huh.

18 MS. M. MILLER: Secondly, it is also within the
19 scope of Mr. McConwell's questioning about --

20 THE COURT: I got it. All right. Further?

21 MR. MARTIN: Your Honor, I never questioned him
22 about any bank accounts. And that's where she's going now.
23 Where did it go from this account to that account, I never
24 went into that.

25 MS. M. MILLER: The whole point of --

1 MR. MARTIN: And I don't think Mr. McConwell did 03:08PM
2 either. 03:08PM

3 THE COURT: Okay. 03:08PM

4 MS. M. MILLER: If we need to go back, we -- we 03:08PM
5 certainly can, Your Honor. But, he did question him regarding 03:08PM
6 these counts, and the whole point of the wire fraud is -- 03:08PM

7 MR. MARTIN: Not the counts. 03:08PM

8 MS. M. MILLER: -- part of the underlying -- 03:08PM

9 THE COURT: No, she's saying -- 03:08PM

10 MR. MARTIN: I'm saying "account," bank accounts, 03:08PM
11 not the counts of the indictment. 03:08PM

12 THE COURT: Bank accounts. 03:08PM

13 MS. M. MILLER: Wire fraud requires -- he 03:08PM
14 questioned -- 03:08PM

15 THE COURT: No, he's saying he never talked about 03:08PM
16 bank accounts. 03:08PM

17 MS. M. MILLER: I know what he's saying. But 03:08PM
18 what I'm saying -- 03:08PM

19 THE COURT: But did they talk about bank 03:08PM
20 accounts? 03:08PM

21 MS. M. MILLER: They talked about the money with 03:08PM
22 the wire fraud which goes into accounts. You don't have wire 03:08PM
23 fraud without it going into a bank account. 03:09PM

24 THE COURT: Which monies, though? Which 03:09PM
25 monies -- what was it, the monies that the tuna boats 03:09PM

1 received?

03:09PM

2 MS. M. MILLER: Correct.

03:09PM

3 THE COURT: Okay. Yes, Mr. Martin?

03:09PM

4 MR. MARTIN: Your Honor, I never talked about
5 bank accounts. I did not go into the depth that she's trying
6 to go back into, and I stand on my objection that it's
7 cumulative.

03:09PM

03:09PM

03:09PM

03:09PM

8 THE COURT: All right. The Court has considered
9 the objections and the proffer, and the Court will overrule
10 the objections and allow. Go ahead. You may proceed.

03:09PM

03:09PM

03:09PM

03:09PM

11 BY MS. M. MILLER: (CONTINUING)

03:09PM

12 Q. Special Agent Khamvongsa, after the money was
13 transferred to Hansen Northern, where was it transferred then?

03:09PM

14 A. It was transferred into Walker Agricola, LLC.

03:09PM

15 Q. And who is the sole owner of Walker Agricola?

03:09PM

16 A. The sole signer on that account is Jon Walker.

03:09PM

17 Q. Now let's look at Exhibit 66 which was a defense
18 exhibit that Mr. McConwell entered into evidence yesterday.
19 And could you go to the next page, please. Thank you.

03:09PM

03:09PM

03:10PM

20 MS. M. MILLER: And then, Ms. Miller, could you
21 please highlight potential abuse where it says "shell
22 companies" and focus in on that, pull that out, please.

03:10PM

03:10PM

03:10PM

23 BY MS. M. MILLER: (CONTINUING)

03:10PM

24 Q. And, Special Agent Khamvongsa, can you read the part
25 that says "shell companies."

03:10PM

03:10PM

Redirect - Khamvongsa

1 THE COURT: Okay. Hold on. I'm sorry. Hold on. 03:10PM

2 Carmen is checking something. Hold on. Fine. You may 03:10PM

3 proceed. Go ahead. Sorry. 03:11PM

4 MS. M. MILLER: Thank you, Your Honor. 03:11PM

5 BY MS. M. MILLER: (CONTINUING) 03:11PM

6 Q. Special Agent Khamvongsa, could you please read this 03:11PM

7 to the jury? 03:11PM

8 A. Yes. "Potential abuse. Shell companies are 03:11PM

9 vulnerable to abuse when used to conceal beneficial owner 03:11PM

10 identity for illicit purposes. According to the Federal 03:11PM

11 Aviation Administration, FAA, officials, some aircraft 03:11PM

12 registrations have stacked company ownership. When shell 03:11PM

13 companies own each other, such ownership arrangement can be 03:11PM

14 used for illicit purposes to conceal the identity of 03:11PM

15 foreign-based beneficial owners and can be difficult to 03:11PM

16 detect." 03:12PM

17 Q. Special Agent Khamvongsa, when we look at 03:12PM

18 Exhibit 829, do you see stacked ownership? 03:12PM

19 A. Yes. 03:12PM

20 Q. When we look at this transaction involving this 03:12PM

21 helicopter, 454S, do we see one, two, three, four, five, six, 03:12PM

22 seven different entities involved in one lease of one 03:12PM

23 helicopter? 03:12PM

24 A. Yes. 03:12PM

25 Q. Despite that, who initially registered the 03:12PM

Redirect - Khamvongsa

1 helicopter?

03:12PM

2 A. Jon Walker.

03:12PM

3 Q. Who eventually receives the money from the lease?

03:12PM

4 A. Jon Walker.

03:12PM

5 Q. Why seven different corporations from different
6 countries in between Jon Walker to Jon Walker?

03:12PM

03:12PM

7 MR. MARTIN: Objection, Your Honor; speculation.

03:12PM

8 THE COURT: All right. Sustained.

03:12PM

9 BY MS. M. MILLER: (CONTINUING)

03:12PM

10 Q. All right. Let's go now to another topic that was
11 covered by Mr. Martin yesterday. Actually, we're going to go
12 to an exhibit that was introduced previously, and it's
13 Exhibit 2939. Okay?

03:12PM

03:12PM

03:13PM

03:13PM

14 MS. M. MILLER: And, Ms. Miller, can you bring
15 that up, please?

03:13PM

03:13PM

16 BY MS. M. MILLER: (CONTINUING)

03:13PM

17 Q. Special Agent Khamvongsa, do you see Exhibit 2939?

03:13PM

18 A. Yes.

03:13PM

19 Q. Okay. And this exhibit was entered into evidence
20 previously with the exception of the last two pages. First of
21 all, can you tell the members of the jury, what is this
22 document?

03:13PM

03:13PM

03:13PM

03:13PM

23 A. This is a member application with Community First
24 Guam Federal Credit Union, and it's for Limey Air Service,
25 Inc.

03:13PM

03:14PM

03:14PM

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1 Q. What's the address for Limey Air Services, Inc., that
2 you see there?

3 A. There's two. There is the mailing address of PO
4 Box 9099, Tamuning, Guam. Then the street location is Lot
5 51584, No. 521 East Harmon Industrial, Harmon, Guam.

6 Q. Who else shares that address?

7 A. Hansen Helicopters.

8 Q. Now, Special Agent Khamvongsa, when this account was
9 opened, what happened just two months earlier?

10 A. The first -- the first indictment took place.

11 Q. When were the defendants indicted?

12 A. May of 2018.

13 Q. When was this account opened?

14 A. July 26, 2018.

15 Q. Did the defendants enter into a transaction to sell
16 their helicopters to another corporate entity after the
17 indictment?

18 A. Yes.

19 Q. Let's look at Exhibit 3003-15.

20 MS. M. MILLER: And this has not been entered
21 into evidence yet, Your Honor.

22 THE COURT: Okay. Yes, Ms. McConwell?

23 MS. MCCONWELL: I object to the aggregate of
24 defendants. She needs to identify what defendant -- which
25 defendants she's --

1 THE COURT: Okay, that's fair enough. Yeah, 03:15PM
2 which -- 03:15PM

3 MS. M. MILLER: Jon Walker. 03:15PM

4 THE COURT: Okay, very well. Please do that when 03:15PM
5 you question the witness. 03:15PM

6 BY MS. M. MILLER: (CONTINUING) 03:15PM

7 Q. Let's look at Exhibit 3003-15, it's going to come up 03:15PM
8 on your screen. Do you recognize this document, sir? 03:16PM

9 A. Yes. 03:16PM

10 Q. Is it a true and correct copy of the information that 03:16PM
11 you obtained from and regarding Pacific Spotters? 03:16PM

12 A. Yes. 03:16PM

13 MS. M. MILLER: Your Honor, at this time, we 03:16PM
14 would offer this into evidence. 03:16PM

15 THE COURT: Counsel? 03:16PM

16 MS. MCCONWELL: Well, Your Honor, this was -- 03:16PM
17 this was obtained and produced on February 11th, 2022. And 03:16PM
18 Mr. Khamvongsa -- Agent Khamvongsa -- 03:16PM

19 MS. M. MILLER: Your Honor, this is a speaking 03:16PM
20 objection. What is the legal basis? 03:16PM

21 THE COURT: I'm sorry. What's the legal basis 03:16PM
22 then? 03:16PM

23 MS. MCCONWELL: Well, the witness has just 03:16PM
24 testified that he relied on this as part of his investigation. 03:16PM
25 However, this was produced, according to the government, after 03:16PM

Redirect - Khamvongsa

1 his investigation. So if he's indicating that he relied --
2 used this to rely on his investigation, it doesn't
3 substantiate --

4 THE COURT: It didn't exist?

5 MS. M. MILLER: I did not ask him that question,
6 so I'm really not sure where that came from. And this has
7 already been argued. The relevance, the foundation, etc.
8 This Court has already ruled on it.

9 THE COURT: Yeah, but I think it's a different
10 objection.

11 MS. M. MILLER: I'm really not sure what that
12 objection is, Your Honor --

13 THE COURT: Why don't you rephrase?

14 MS. M. MILLER: -- because I didn't ask the
15 witness that question.

16 THE COURT: Well, let's rephrase the question.
17 Let me hear the question again or --

18 BY MS. M. MILLER: (CONTINUING)

19 Q. Special Agent Khamvongsa, I had asked you just
20 previously did you see evidence that there was a sale or
21 transfer of the helicopters from one company to another.

22 A. Yes.

23 Q. Okay. Is this one piece of evidence that supports
24 your knowledge of that sale?

25 A. Yes.

1 Q. When we go back to the Limey bank records, are there 03:17PM
2 two pages that have not been entered into evidence yet that 03:17PM
3 will be entered into evidence that also support your 03:17PM
4 investigation regarding the fact that those aircraft were 03:17PM
5 transferred to another company? 03:17PM

6 MS. MCCONWELL: I object to leading. 03:17PM

7 MR. MARTIN: I object to commenting on evidence. 03:17PM

8 MS. M. MILLER: It's foundational. 03:17PM

9 THE COURT: Okay. The Court will sustain the 03:17PM
10 objection as to leading. 03:17PM

11 BY MS. M. MILLER: (CONTINUING) 03:18PM

12 Q. What does -- 03:18PM

13 THE COURT: Let the exhibit speak for itself. 03:18PM

14 BY MR. M. MILLER: (CONTINUING) 03:18PM

15 Q. What does Exhibit 2939, the last two pages of that 03:18PM
16 exhibit that we're going to show the jury in a moment, show 03:18PM
17 you regarding this transaction? 03:18PM

18 A. It shows that the operation moved offshore into the 03:18PM
19 Philippines, and then wires are being sent back to Guam here 03:18PM
20 so that they could pay their own operational expenses from the 03:18PM
21 account that we just looked at. 03:18PM

22 MR. MARTIN: Your Honor, I object to him 03:18PM
23 speculating as to what -- what was paid with what. He can say 03:18PM
24 that -- he can say what the document reflects, but he's 03:18PM
25 testifying as to what his theory of the case is, and I object 03:18PM

1 to it.

03:18PM

2 THE COURT: Okay. Okay. Just focus on what the
3 document states then. Does the document state what you just
4 said, everything you said?

03:18PM

03:18PM

03:18PM

5 THE WITNESS: It supports -- it's one piece of
6 the document that supports what I just said.

03:18PM

03:18PM

7 MR. MARTIN: That's his theory, Your Honor, which
8 I object --

03:18PM

03:18PM

9 THE COURT: It's not -- okay. So the question
10 is, though -- okay.

03:18PM

03:18PM

11 MS. M. MILLER: We argued this --

03:19PM

12 THE COURT: Okay. I know.

03:19PM

13 MS. M. MILLER: At length. If we have to go all
14 the way back, we can.

03:19PM

03:19PM

15 THE COURT: No, no, I'm just -- hold on.

03:19PM

16 MR. MARTIN: Your Honor, my objection is
17 speculation. And we haven't argued that. He's testifying as
18 to his theory, which is speculation. I'm not arguing what the
19 document says.

03:19PM

03:19PM

03:19PM

03:19PM

20 THE COURT: All right. Why don't we -- okay.
21 The Court will sustain the objection in terms of -- of what
22 you believe the document says. Let the document speak for
23 itself. So sustained.

03:19PM

03:19PM

03:19PM

03:19PM

24 BY MS. M. MILLER: (CONTINUING)

03:19PM

25 Q. Sir, Limey Air Service, when you received these bank

03:19PM

1 records from Limey Air Service, can you tell the members of
2 the jury why you asked for these bank records from Limey Air
3 Service?

4 A. I asked for those particular bank records because it
5 was identified they opened that account shortly after the
6 first indictment.

7 Q. Okay. And was there evidence about Limey Air Service
8 being involved in the underlying actions that you were
9 investigating?

10 A. Yes.

11 Q. Was there also evidence about the defendants opening
12 up a new corporate entity after they were indicted?

13 MR. MARTIN: Objection.

14 THE WITNESS: Yes.

15 MR. MARTIN: Objection; leading, Your Honor. I'd
16 ask the witness --

17 MS. M. MILLER: I'm laying a foundation.

18 THE COURT: Hold on. Hold on. Just -- the
19 objection is leading, the Court will sustain the objection.

20 BY MS. M. MILLER: (CONTINUING)

21 Q. What evidence was there, sir, of any additional
22 corporations opened after the indictment?

23 A. Pacific.Spotters Corporation was opened up around the
24 timeframe after the indictment.

25 Q. And how do you know that, sir?

1 A. I've seen the records from the Philippines. 03:20PM

2 Q. Who is the president of Pacific.Spotters? 03:20PM

3 A. Defendant Jon Walker. 03:20PM

4 Q. Who's the president of Limey Air Services, Inc? 03:20PM

5 A. Defendant -- Defendant Jon Walker. 03:20PM

6 Q. What is the business of Pacific.Spotters Corporation? 03:20PM

7 A. Helicopter leasing. 03:21PM

8 Q. What was the business of Limey Air Services, Inc.? 03:21PM

9 A. Helicopter leasing. 03:21PM

10 Q. And this exhibit in front of you, sir, 03:21PM

11 Exhibit 3003-15, what does this exhibit show you? 03:21PM

12 MR. MARTIN: Well, Your Honor, I object. He can 03:21PM

13 read from the exhibit, but he cannot interpret the exhibit. 03:21PM

14 MS. M. MILLER: And I move in Exhibit 3003-15, 03:21PM

15 Your Honor, based on all the arguments you heard yesterday 03:21PM

16 regarding this, and I would ask it to be published to the 03:21PM

17 jury. 03:21PM

18 THE COURT: All right. Is it okay? 03:21PM

19 MR. MARTIN: And I understand that, Your Honor, 03:21PM

20 and I want the record to reflect my continuing objection. 03:21PM

21 THE COURT: Okay. Objection so noted. Yes, 03:21PM

22 Ms. McConwell? 03:21PM

23 MS. MCCONWELL: And Hansen Helicopters and also 03:21PM

24 this -- if this is admitted, Hansen Helicopters is not part of 03:21PM

25 Counts 99 through 110. 03:21PM

1	THE COURT: All right. So noted. Objection	03:21PM
2	overruled. And Exhibit...	03:22PM
3	MS. M. MILLER: 3003-15.	03:22PM
4	THE COURT: 3003-15 will be admitted.	03:22PM
5	(Exhibit 3003-15 admitted.)	03:22PM
6	MS. M. MILLER: Thank you, Your Honor. May I	03:22PM
7	publish it to the jury, please?	03:22PM
8	THE COURT: You may.	03:22PM
9	MS. M. MILLER: May I publish it to the jury,	03:22PM
10	Your Honor?	03:22PM
11	THE COURT: You may.	03:22PM
12	MS. M. MILLER: Yes. Thank you.	03:22PM
13	BY MS. M. MILLER: (CONTINUING)	03:22PM
14	Q. Okay. Special Agent Khamvongsa, do you see the	03:22PM
15	document in front of you?	03:22PM
16	A. Yes.	03:22PM
17	Q. Can you tell the members of the jury, what date is	03:22PM
18	this document?	03:22PM
19	A. November 17th, 2018.	03:22PM
20	Q. Read the first paragraph of the document, please,	03:22PM
21	sir.	03:22PM
22	A. "The -- the seller did on this November 17th, 2018,	03:22PM
23	day of November 2018 sell, transfer and deliver all of its	03:23PM
24	rights, title and interest in and to the aircraft in each case	03:23PM
25	to the following entity, the said aircraft to be the property	03:23PM

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1 thereof: Pacific.Spotters Corporation, Unit 117, Charlie
2 Building, Subic International Hotel Complex, Zarita Road,
3 Subic Bay, Freeport Zone, Philippines. The buyer."

4 Q. And how much did Pacific.Spotters Corporation pay for
5 the helicopters?

6 A. \$340,000.

7 Q. Can you remind the jury what the value of the
8 helicopters were in the balance sheet of Wilma's?

9 A. Approximately \$14 million.

10 Q. Now let's go down to the bottom of this document,
11 please, and see what is being represented regarding the
12 condition of the helicopters. And can you please read
13 Subparagraph 3, starting with "the aircraft."

14 A. "The aircraft is sold in an as-is basis without any
15 warranties whatsoever, expressed or implied, as to the
16 merchantability, fitness for any purpose, durability, design
17 or suitability, especially that it was disclosed that the
18 majority of the aircraft are considered to be scrap,
19 nonfunctional and/or have expired and lost certificates of
20 registration and airworthiness."

21 Q. All right. Now, sir, I would like you to look at
22 Exhibit 2939 again. And this time, I would like you to look
23 at Page 82 of that exhibit, which has not been entered into
24 evidence yet, but I will seek to move it in. And while that's
25 being pulled up for you, can you tell the members of the jury

1 whether Pacific.Spotters did, in fact, start leasing
2 helicopters to tuna boat companies for money in 2018?

3 A. Yes, they did.

4 Q. And I want you to look at Exhibit 2939, Pages 82 and
5 83. Do you recognize those pages?

6 A. Yes.

7 Q. And are they a true and correct copy of the
8 information that you obtained from the bank account of Limey
9 Air Services, Inc.?

10 A. Yes.

11 MS. M. MILLER: Your Honor, at this time, the
12 government would move into evidence Exhibit 2939, Pages 82 and
13 83.

14 MR. MARTIN: Your Honor, we'll stand on our
15 previous objection.

16 THE COURT: Okay. Same?

17 MS. MCCONWELL: Same with Hansen.

18 THE COURT: All right. Very well. Objections
19 will be preserved.

20 MS. M. MILLER: May I publish to the jury?

21 THE COURT: Yes, 2939-82 are both -- are
22 admitted.

23 MS. M. MILLER: Thank you, Your Honor.

24 THE COURT: You may publish.
25 (Exhibit 2939-82, 2939-83 admitted.)

1 MS. M. MILLER: May I publish that to the jury,
2 Your Honor?

3 THE COURT: You may. It's just one exhibit
4 there, right?

5 MS. M. MILLER: It's Pages 82 and 83.

6 THE COURT: Oh, okay. That was -- okay. I see.
7 82, that has both 82 on it. Okay. 82 and 83 are both
8 admitted, and the objections are preserved and noted. And may
9 be published.

10 BY MS. M. MILLER: (CONTINUING)

11 Q. Special Agent Khamvongsa, can you tell the members of
12 the jury what we're looking at here?

13 A. This was provided from the bank. This is a summary
14 of incoming wire transfers for January to December of 2018.

15 Q. Okay. From the originator, what is the originator?

16 A. The originator, Limey -- excuse me. The originator
17 is Pacific.Spotters Corporation.

18 Q. And the funds are going into which account?

19 A. Limey Air Service, Inc.

20 Q. Okay. And that is the account we've been talking
21 about, sir?

22 A. Yes.

23 Q. Who's the president of Limey Air?

24 A. Defendant Jon Walker.

25 Q. Who's the president of Pacific.Spotters?

Redirect - Khamvongsa

1 A. Defendant Jon Walker. 03:27PM

2 Q. Now let's look at Page 83. And what do we see here? 03:27PM

3 A. This is an incoming wire transfer log from January to 03:27PM
4 December 2019 identifying the originator and the beneficiary 03:27PM
5 and the amounts. 03:27PM

6 Q. And who is the originator of these hundreds of 03:27PM
7 thousands of dollars totaling \$5 million coming into this 03:27PM
8 account? 03:27PM

9 A. Pacific.Spotters Corporation. 03:27PM

10 Q. And who's the beneficiary or recipient of those 03:27PM
11 funds? 03:27PM

12 A. Limey Air Service, Inc. 03:27PM

13 Q. Can you tell the members of the jury whether you 03:27PM
14 traced these funds to determine the source of the funds? 03:27PM

15 A. Yes. 03:27PM

16 Q. What was the source of the funds? 03:27PM

17 A. The leasing of the helicopters to tuna boat 03:27PM
18 companies. 03:27PM

19 Q. Okay. Now, sir, I'd like to talk to you about all of 03:27PM
20 these different companies that were used and ask you some 03:28PM
21 questions. 03:28PM

22 What did the defendants themselves say about why so 03:28PM
23 many different companies were used to lease these helicopters? 03:28PM

24 MR. MARTIN: Your Honor, I object, this is beyond 03:28PM
25 the scope of direct -- I mean of cross, and not -- not 03:28PM

1 consistent with the exhibits just introduced, that the Court
2 allowed the government the opportunity -- I'm sorry. And not
3 consistent with the exhibit that was just introduced which the
4 Court allowed, which was 3003-82 and 83.

5 THE COURT: Ms. McConwell?

6 MS. MCCONWELL: And it's leading.

7 THE COURT: All right.

8 MS. M. MILLER: It is within the scope, Your
9 Honor, because Mr. Martin and Mr. McConwell both asked this
10 witness questions about the different companies that were used
11 and also asked questions to try to represent that these
12 companies were actually legitimate, valid, independent from
13 the defendants.

14 MR. MARTIN: This is a speaking objection. If
15 we're going to go into that, I mean -- what I intend to
16 represent is a speaking objection.

17 THE COURT: Yeah, right. Yeah, don't -- yeah,
18 just respond to -- the objection is beyond the scope -- beyond
19 the -- beyond the scope of the --

20 MS. M. MILLER: My response -- it is -- it is
21 within the scope because it rebuts and refutes any assertion
22 that these Vanuatu companies --

23 MR. MARTIN: We're making a speaking objection
24 again, Your Honor, what she thinks it rebuts or -- is a
25 speaking objection.

1 THE COURT: All right. All right. Anything -- 03:29PM
2 okay. That's it. The Court will overrule the objection. Go 03:29PM
3 ahead and proceed. 03:29PM

4 BY MS. M. MILLER: (CONTINUING) 03:29PM

5 Q. What did the defendants say about why all of these 03:29PM
6 different companies were used? 03:29PM

7 A. To limit their liability; to limit Hansen Helicopters 03:29PM
8 and Mr. Walker's liability. 03:29PM

9 Q. Mr. Martin also showed you an Exhibit 366 yesterday, 03:29PM
10 an aircraft that was registered in New Zealand; do you recall 03:29PM
11 that? 03:30PM

12 A. Yes. 03:30PM

13 Q. I'd like to you show what has been previously marked 03:30PM
14 as Exhibit 302 and has been entered into evidence as 03:30PM
15 Exhibit 302. 03:30PM

16 MS. M. MILLER: And specifically, Ms. Miller, if 03:30PM
17 you can go to Page 2 of Exhibit 302, that references the New 03:30PM
18 Zealand-registered aircraft. 03:30PM

19 MS. MCCONWELL: I do not -- oh, no. Never mind. 03:30PM

20 BY MS. M. MILLER: (CONTINUING) 03:30PM

21 Q. Could you please read for the jury what the 03:30PM
22 defendants represented the reason was for the aircraft being 03:30PM
23 registered in New Zealand. 03:30PM

24 A. "The aircraft wasn't changed to" -- 03:30PM

25 MS. MCCONWELL: Your Honor, I object to the 03:30PM

1 grouping of defendants. 03:30PM

2 THE COURT: All right. Please specify which 03:30PM
3 defendant. 03:30PM

4 MS. M. MILLER: Yes. This was rep -- this was an 03:30PM
5 attempted sale by Hansen Helicopters -- 03:30PM

6 MR. MARTIN: Your Honor -- 03:30PM

7 MS. M. MILLER: -- of its company -- 03:30PM

8 MR. MARTIN: The objection was -- 03:31PM

9 THE COURT: Right, the -- the Court -- what is 03:31PM
10 the -- which defendant is it? 03:31PM

11 MS. M. MILLER: So this goes to both Hansen 03:31PM
12 Helicopters and Jon Walker. 03:31PM

13 THE COURT: That was the question. All right. 03:31PM

14 MS. MCCONWELL: Hansen Helicopters is not a party 03:31PM
15 to Counts 99 through 110, and I would object to any questions 03:31PM
16 about -- 03:31PM

17 MS. M. MILLER: But Jon Walker is, and our 03:31PM
18 contention is as the sole owner -- 03:31PM

19 THE COURT: I know -- 03:31PM

20 MS. M. MILLER: -- and controller -- 03:31PM

21 THE COURT: -- I got it. 03:31PM

22 MS. M. MILLER: Right. 03:31PM

23 THE COURT: Anything else, counsels? 03:31PM

24 MR. MARTIN: Your Honor, we don't know who the 03:31PM
25 author -- the government hasn't -- our question was, who is 03:31PM

1 the author of this document. That's the objection.

03:31PM

2 MS. M. MILLER: This was -- this was
3 previously --

03:31PM

03:31PM

4 THE COURT: Hold on. You want -- you want to
5 voir dire the witness in aid of an objection?

03:31PM

03:31PM

6 MR. MARTIN: Yes, Your Honor.

03:31PM

7 THE COURT: All right. That might be faster than
8 all these objections. Go ahead.

03:31PM

03:31PM

9

03:31PM

10 VOIR DIRE

03:31PM

11 BY MR. MARTIN:

03:31PM

12 Q. Agent Khamvongsa, in front of you, I believe, is
13 Exhibit No. G-302; do you see that, sir?

03:31PM

03:31PM

14 A. They took it off screen, but I -- oh, yes. Yes.

03:31PM

15 Q. Okay. And have you had a chance to review that, sir?

03:31PM

16 A. Yes.

03:31PM

17 Q. Okay. And do you -- sir, by looking at that
18 document, can you tell --

03:32PM

03:32PM

19 MS. MCCONWELL: He doesn't have the front, the
20 first page.

03:32PM

03:32PM

21 MR. MARTIN: All right.

03:32PM

22 BY MR. MARTIN: (CONTINUING)

03:32PM

23 Q. Do you know who the author of that document is, sir?

03:32PM

24 A. Co-defendant, Mr. Crowe.

03:32PM

25 Q. Well, no, where do you see that, sir?

03:32PM

1 A. It came as a result in response to an e-mail. This
2 was an e-mail attachment in regards to a potential buyer that
3 we've been talking about throughout this trial.

4 Q. So the -- so it is -- it refers to a meeting with
5 Rufus; correct, sir?

6 A. Mr. Crowe, yes.

7 Q. Okay. It doesn't say Mr. Crowe is the author, this
8 is some third party; correct, sir?

9 A. This -- this is in response -- this is between that
10 meeting, yes.

11 Q. This is not a document that was authored by
12 Mr. Crowe, this is a document that was written by a third
13 party in --

14 MS. M. MILLER: Objection, Your Honor.

15 MR. MARTIN: -- is that correct?

16 THE COURT: Hold on. No, no, let him finish the
17 question. What is the question, Mr. Martin? Go ahead.
18 Okay. One person.

19 MS. MCCONWELL: Well, no, Your Honor. He needs
20 to have the first page and I'm not driving on the exhibit. He
21 needs to have the first page of the exhibit --

22 MS. M. MILLER: Your Honor --

23 MS. MCCONWELL: -- displayed to the witness.

24 THE COURT: Hold on, Counsel. Okay. Let --
25 Mr. Martin, do you want the first page of the exhibit on, or

1 what's the deal? You want to keep on asking questions? 03:33PM

2 MR. MARTIN: I thought he had the first page 03:33PM

3 because I'm looking at it on my computer. I'm sorry. If we 03:33PM

4 could go to the very first page, 302-1. 03:33PM

5 BY MR. MARTIN: (CONTINUING) 03:33PM

6 Q. Do you see the top of the first page, sir? 03:33PM

7 A. Yes. 03:33PM

8 Q. Okay. And would you agree with me, sir, that this is 03:33PM

9 some type of a document that somebody prepared based upon a 03:33PM

10 meeting with Mr. Crowe? 03:33PM

11 A. This is from Mr. Crowe. 03:33PM

12 Q. Does it have Mr. Crowe's e-mail address on it, sir? 03:33PM

13 A. Sir, if you look, it's answering a question, he's 03:33PM

14 responding -- 03:33PM

15 Q. The question was -- 03:33PM

16 THE COURT: Hold on. Hold on. Q and A, question 03:33PM

17 and answer. 03:34PM

18 BY MR. MARTIN: (CONTINUING) 03:34PM

19 Q. My question was, Does it have Mr. Crowe's e-mail 03:34PM

20 address on there? 03:34PM

21 A. His e-mail is not on this document. 03:34PM

22 MS. M. MILLER: By the way, Your Honor, we went 03:34PM

23 through this when this document was admitted into evidence 03:34PM

24 months ago. We had the e-mail introduced -- 03:34PM

25 THE COURT: That's not -- that's not the 03:34PM

1 question. I know, but the question is the query of getting 03:34PM
2 into the substance of this because you're trying to get -- 03:34PM

3 MS. M. MILLER: But the prior -- 03:34PM

4 THE COURT: Hold on. Trying to get an admission, 03:34PM
5 so let's just try to get through this. 03:34PM

6 MS. M. MILLER: And he's already answered. This 03:34PM
7 was prepared by Mr. Crowe. 03:34PM

8 THE COURT: Hold on. Let him finish his 03:34PM
9 question. Go ahead, Mr. Martin. 03:34PM

10 BY MR. MARTIN: (CONTINUING) 03:34PM

11 Q. From the document that is on the screen, Exhibit 302, 03:34PM
12 is there anything to identify who the author of the document 03:34PM
13 is? 03:34PM

14 A. This was attach -- the documents with Mr. Crowe in 03:34PM
15 his response. 03:34PM

16 Q. Is there anything on the document to identify who the 03:34PM
17 author of the document is, sir? 03:35PM

18 A. The author is both -- 03:35PM

19 Q. Is there anything -- 03:35PM

20 A. -- the buyer and Mr. Crowe. 03:35PM

21 Q. -- on the -- in the contents of the document to 03:35PM
22 identify who the author of the document is? Do you understand 03:35PM
23 that question? 03:35PM

24 A. Yeah, it's the response to the questions. 03:35PM

25 Q. No, is there -- I'm not asking about response, I'm 03:35PM

1 not asking about anything, I'm asking -- 03:35PM

2 A. But you said "is there anything," is there 03:35PM
3 anything -- 03:35PM

4 Q. Is there anything -- 03:35PM

5 A. The response is to the buyer. The response is a 03:35PM
6 meeting with Rufus. 03:35PM

7 Q. Sir, read in this document where it says who the 03:35PM
8 author of the document is. 03:35PM

9 A. Sure. "All the companies owned by Jon with a few 03:35PM
10 percentages going to Ledger, Marv or me" -- 03:35PM

11 Q. That -- 03:35PM

12 A. -- or me. "Or me, Rufus Crowe, for legality's sake." 03:35PM

13 Q. Where are you reading, sir? 03:35PM

14 A. Look at No. 1. Look at the -- "revisit the 03:35PM
15 organizational structure and ownership interest of the various 03:35PM
16 companies." Now look at the response in bold. 03:36PM

17 Q. Who is the -- who is it -- where does it say that 03:36PM
18 Rufus said that, sir? 03:36PM

19 A. Meeting with Rufus. 03:36PM

20 MR. MARTIN: Your Honor, I -- I object that there 03:36PM
21 is no indication who the author of this is and that it 03:36PM
22 reflects actually it is a third party. Somebody prepared 03:36PM
23 this -- not Mr. Crowe, but somebody prepared this document 03:36PM
24 that is not one of the defendants in this case. 03:36PM

25 THE COURT: Anything else? Okay. Any other 03:36PM

1 objection or any other question?

03:36PM

2 MR. MARTIN: That's it, Your Honor.

03:36PM

3 THE COURT: Okay. Now you may respond,

03:36PM

4 Ms. Miller.

03:36PM

5 MS. M. MILLER: First of all, this document is in

03:36PM

6 evidence. Secondly, this argument was made the first time the

03:36PM

7 government moved this document into evidence. At that time,

03:36PM

8 we offered Your Honor the e-mail --

03:36PM

9 THE COURT: We got that. The question is -- he

03:36PM

10 just asked him a very specific question.

03:36PM

11 MS. M. MILLER: Yes. So when you see "all of the

03:36PM

12 companies are owned by Jon with a few percentages going to

03:36PM

13 Ledger, Marv or me," Rufus Crowe is the other person besides

03:37PM

14 David Ledger, Marvin Reed and Jon Walker.

03:37PM

15 THE COURT: All right. So you're repeating

03:37PM

16 everything he just said. All right. Very well. Anything

03:37PM

17 else?

03:37PM

18 MR. MARTIN: Your Honor, that does not reflect

03:37PM

19 who the author is.

03:37PM

20 THE COURT: All right. So I think that this is

03:37PM

21 one of those situations where, again, it will go to the

03:37PM

22 credibility of the witness and what the jury wants to glean

03:37PM

23 from that; whether Rufus Crowe is the author or not, that's up

03:37PM

24 to them. So the Court will overrule the objection. Next

03:37PM

25 question.

03:37PM

1 MS. M. MILLER: Yes, Your Honor. Can we go to
2 Page 2, please?

3 BY MS. M. MILLER: (CONTINUING)

4 Q. And, sir, by the way, where did the government get
5 this document from?

6 A. It was obtained through the search warrant back in
7 October of 2016.

8 Q. From whose computer?

9 A. Hansen Helicopters.

10 Q. Now can we go to Page 2. What was represented here
11 regarding the New Zealand-registered helicopters that
12 Mr. Martin asked you about yesterday?

13 A. "The aircraft wasn't changed to U.S. registration
14 because leaving it this way circumnavigates the FAA. Just
15 like Stewart does with skydiving planes Australian. The FAA
16 leaves you alone."

17 Q. Okay, sir. Now let's go down to Question 4 in this
18 document which is on the same page, Page 2, Question 4. And
19 to remind the jury, sir, this document was prepared in
20 anticipation of an attempt to sell Hansen Helicopters?

21 MR. MARTIN: Your Honor, I object to that.
22 There's...

23 THE COURT: Objection will be leading. Next
24 question.

25 BY MS. M. MILLER: (CONTINUING)

1 Q. Why was this document prepared, sir?

03:38PM

2 A. It was --

03:38PM

3 MS. MCCONWELL: I object to speculation.

03:38PM

4 THE COURT: Sustained.

03:38PM

5 BY MS. M. MILLER: (CONTINUING)

03:38PM

6 Q. Do you know why this document was prepared?

03:38PM

7 A. Yes.

03:38PM

8 Q. Why?`

03:38PM

9 MR. MARTIN: Your Honor, we object to

03:38PM

10 speculation.

03:38PM

11 BY MS. M. MILLER: (CONTINUING)

03:38PM

12 Q. How do you know why?

03:38PM

13 A. Based upon e-mails that I reviewed --

03:38PM

14 Q. Okay.

03:38PM

15 A. -- between the -- between Hansen Helicopters and its
16 officers and an outside third party.

03:38PM

03:38PM

17 Q. And what was the communications with the outside
18 third party?

03:39PM

03:39PM

19 A. They either wanted to buy or invest into the company.

03:39PM

20 Q. Okay. Now, let's look at Question 4. "Some of the
21 leases refer to Wilma's Flight Service as the lessor and
22 operator, registered owner, whereas other leases do not. Is
23 this a typo, or is there some explanation?"

03:39PM

03:39PM

03:39PM

03:39PM

24 And can you read the answer to that question?

03:39PM

25 MR. MARTIN: Your Honor, I -- my objection is,

03:39PM

1 this is a brand-new direct examination. We are way beyond the 03:39PM
2 scope of cross, we're way beyond the scope of the new exhibits 03:39PM
3 you allowed in. This is just a brand-new redirect, and we're 03:39PM
4 plowing ground that should have been plowed a long time ago. 03:39PM
5 That's an Oklahoma phrase, it's not a legal -- it's not a 03:39PM
6 legal objection, but I apologize. 03:39PM

7 MS. M. MILLER: Well, Your Honor, Mr. Martin -- 03:39PM

8 THE COURT: Hold on. Let me hear the next 03:39PM
9 objection first. 03:39PM

10 MS. M. MILLER: I think he's done. 03:40PM

11 THE COURT: I take all objections first before -- 03:40PM

12 MS. M. MILLER: Yeah. 03:40PM

13 MS. MCCONWELL: Hansen joins. 03:40PM

14 THE COURT: Hansen joins, yes. 03:40PM

15 MS. M. MILLER: So Mr. Martin yesterday, Your 03:40PM
16 Honor, asked the witness about the lease between Wilma's 03:40PM
17 Flight Service and the tuna boat company that identified 03:40PM
18 S45S -- 454S as part of the lease. And Wilma's Flight Service 03:40PM
19 was identified as a lessor. And that was a lease that 03:40PM
20 Mr. Martin went over with Special Agent Khamvongsa. So this 03:40PM
21 is directly in response to his cross-examination, and it's 03:40PM
22 very relevant to whether that was, in fact, a valid and 03:40PM
23 independent transaction or not. 03:40PM

24 THE COURT: All right. Overruled. Go ahead. 03:40PM

25 BY MS. M. MILLER: (CONTINUING) 03:40PM

Redirect - Khamvongsa

1 Q. Can you please read the answer to Question 4? 03:40PM

2 A. "It is all Hansen Helicopters. All the aircraft are 03:40PM
3 owned wholly by Hansen and its subsidiary companies, and all 03:40PM
4 leases and contracts are basically with Hansen, Jon and -- 03:40PM
5 Hansen. Jon and Ledger were trying to spread out the 03:40PM
6 liability through the forming of the other companies. 03:40PM
7 Everything is controlled by Hansen and Jon. They are 03:40PM
8 synonymous." 03:41PM

9 MS. M. MILLER: I have no further questions, Your 03:41PM
10 Honor. 03:41PM

11 THE COURT: I'm sorry? 03:41PM

12 MS. M. MILLER: I have no further questions. 03:41PM

13 THE COURT: No further questions. Okay. So -- 03:41PM
14 yes? Are we ready to excuse this witness, everyone? 03:41PM

15 MS. M. MILLER: Yes, Your Honor. 03:41PM

16 MR. MCCONWELL: Might we take a break before we 03:41PM
17 start? 03:41PM

18 THE COURT: Well, it's already -- okay. I'm 03:41PM
19 going to excuse this witness. Are you done -- we're done with 03:41PM
20 him? 03:41PM

21 MS. M. MILLER: Yes, we're done with this 03:41PM
22 witness, Your Honor. 03:41PM

23 THE COURT: Oh, no. 03:41PM

24 MR. MARTIN: No, no, Your Honor. I have 03:41PM
25 extensive cross-examination that I, in all candor, after 03:41PM

1 Mr. McConwell gets done, I don't think I can finish before 03:41PM
2 4:00. I don't know how much time he's going to take, but -- 03:41PM

3 THE COURT: Oh, I thought -- 03:41PM

4 MR. MARTIN: She's gone three hours and 03:41PM
5 45 minutes with him. 03:41PM

6 MS. M. MILLER: I have not. 03:41PM

7 MR. MARTIN: Two hours and 45 minutes. I can't 03:41PM
8 see that well. 03:41PM

9 THE COURT: Okay. 03:41PM

10 MS. M. MILLER: Okay. Then we had breaks, then 03:41PM
11 we had arguments. So I certainly didn't. 03:41PM

12 THE COURT: Ms. Miller, let him talk. I thought 03:41PM
13 we were done. 03:41PM

14 MS. M. MILLER: We should be done. 03:41PM

15 THE COURT: Hold on, hold on. You still want to 03:41PM
16 come back and do a re -- hold on, let me think. It's a 03:42PM
17 recross because there's -- is there new stuff that you guys 03:42PM
18 need to -- 03:42PM

19 MR. MARTIN: You just introduced two brand-new 03:42PM
20 exhibits, Judge. 03:42PM

21 MS. M. MILLER: Your Honor, that was all in 03:42PM
22 response to his cross. 03:42PM

23 THE COURT: Hold on. This is -- no, no, I didn't 03:42PM
24 make a ruling subsequent in the middle of -- yeah, so I'll let 03:42PM
25 you speak on those -- on those particular exhibits, yes. 03:42PM

1 MR. MARTIN: And she substantially expanded 03:42PM
2 several areas that I think I should be allowed to go into. 03:42PM
3 I'll try to be as brief as I can, but... 03:42PM

4 MS. M. MILLER: Well, then, Your Honor, I'm going 03:42PM
5 to want re-redirect. I mean -- 03:42PM

6 THE COURT: No, no, no, no, no. Let me tell you 03:42PM
7 this. If I allow -- here's the deal. The only time -- the 03:42PM
8 only time -- see? Not only is my throat going out, my 03:42PM
9 computer is going out because you guys are getting too noisy. 03:42PM
10 All right. And now my microphone is broken. Everything is 03:42PM
11 breaking apart up here. Never mind. You can fix it later. 03:43PM

12 All right. All right. So listen, normally I 03:43PM
13 allow direct examination, cross-examination and redirect, and 03:43PM
14 I allow recross if there is new information that was brought 03:43PM
15 out that you -- and so the Court will agree with Mr. Martin, 03:43PM
16 Ms. McConwell, that they can go back to the exhibits that I 03:43PM
17 allowed in, and I made that ruling -- you know which one I'm 03:43PM
18 talking about -- earlier. So I will allow -- 03:43PM

19 MS. M. MILLER: Those two new exhibits? 03:43PM

20 THE COURT: -- right now with regard to those 03:43PM
21 two. Now, if -- is there anything further than those two, and 03:43PM
22 if so, you have to explain that to me. 03:43PM

23 MR. MARTIN: Well, you admitted 3003-15. You 03:43PM
24 admitted 3003-82, 3003-83. And -- 03:43PM

25 MS. M. MILLER: No, no, wrong numbers. 03:43PM

1 THE COURT: Okay. Hold on.

03:43PM

2 MR. MARTIN: 2939-82 and 2939 -- I apologize.

03:43PM

3 3929 -- 2939-83. And there are exhibits, Your Honor -- there

03:44PM

4 is an exhibit... okay. There are exhibits, Your Honor, a

03:44PM

5 couple of them that have been admitted that relate that should

03:44PM

6 be gone into.

03:44PM

7 THE COURT: All right. I don't think my throat

03:44PM

8 is going to stay -- we've got like 15 more minutes. So what

03:44PM

9 we're going to do is we'll recess and start on Monday with

03:44PM

10 him. But I want to talk to all of you so we can narrow,

03:44PM

11 narrow this recross-examination.

03:44PM

12 Now, the only way that Ms. Marie Miller is going

03:44PM

13 to come back again, if I allow her to go on re-redirect, is if

03:44PM

14 it's something totally brand-new. But I'm pretty sure we can

03:44PM

15 get this done with. You-all are pounding -- I think we got

03:44PM

16 it. We got it. This is a smart jury. They got it.

03:44PM

17 Okay. So, ladies and gentlemen, let me say, keep

03:44PM

18 an open mind. Please do not form or express any opinion on

03:45PM

19 this case. You're still here. Oh, my gosh. I feel like we

03:45PM

20 live together.

03:45PM

21 THE WITNESS: You're a great roommate, Your

03:45PM

22 Honor.

03:45PM

23 THE COURT: Thank you. Well, I'm falling apart

03:45PM

24 here. Everything, my throat, my everything is falling apart.

03:45PM

25 But do not form or express any opinion on this case until it's

03:45PM

1 submitted to you. Do not speak to anyone on any subject 03:45PM
2 connected with this trial. If there is any media coverage, 03:45PM
3 sometimes there is or has been, just ignore it, don't pay 03:45PM
4 attention to it. What really counts is what happens in the 03:45PM
5 courtroom. And there is a lot happening in the courtroom. 03:45PM

6 So, you know, what's very important is what you 03:45PM
7 hear from the testimony of the witnesses and the exhibits that 03:45PM
8 are produced, and you will be able to get that when you go and 03:45PM
9 deliberate. But it's important to ensure that both the 03:45PM
10 prosecution, the defense have a fair trial that you focus only 03:45PM
11 on what happens here. 03:45PM

12 So we're going to hopefully finish with the agent 03:45PM
13 on Monday morning. And then prosecution will have their next 03:45PM
14 witness, Mr. Guzzetti, ready to go right after. So you guys 03:45PM
15 have a nice weekend. Take care of yourself. I know one of 03:46PM
16 you is going to have a baby soon, so we wish you the best. 03:46PM
17 We're praying for you. All right. Have a nice weekend. Take 03:46PM
18 care. 03:46PM

19 (Jury out at 3:46 p.m.) 03:46PM

20 THE COURT: Same time, same time. 8:15, right. 03:46PM
21 Get her ice chips. All right. So what -- 03:46PM

22 MS. M. MILLER: Your Honor, I just had something 03:46PM
23 brought to my attention that I do want to bring to the Court's 03:46PM
24 attention. 03:46PM

25 THE COURT: Oh, no. 03:46PM

1 THE CLERK: One moment. 03:46PM

2 THE COURT: Hold on. Hold on. Hold on. 03:46PM

3 MS. MCCONWELL: Am I in trouble? 03:46PM

4 MS. M. MILLER: Yeah, you are. 03:47PM

5 MS. MCCONWELL: She's looking at me. 03:47PM

6 THE COURT: Uh-huh. 03:47PM

7 MS. M. MILLER: Someone overheard Ms. McConwell 03:47PM

8 approach Ms. Santos to try to convince her, I guess, that 03:47PM

9 Exhibit 3003-14 was already admitted into evidence when it has 03:47PM

10 not been admitted into evidence; is that correct? 03:47PM

11 MS. MCCONWELL: Well, I e-mailed to ask if it was 03:47PM

12 admitted into evidence because I said my notes said it -- my 03:47PM

13 note -- I have two conflicting notes; was it admitted or was 03:47PM

14 it not admitted. 03:47PM

15 THE CLERK: It is admitted, Your Honor. And it 03:47PM

16 showed up also on the transcript of proceedings that one of 03:47PM

17 the parties just requested and was docketed just recently 03:47PM

18 regarding 3003. 03:47PM

19 THE COURT: So just some confusion? 03:47PM

20 THE CLERK: 3003-14 was admitted. 03:47PM

21 THE COURT: It was admitted. 03:47PM

22 THE CLERK: It was my error that I did not note 03:47PM

23 it as being admitted. 03:48PM

24 THE COURT: Okay. So Carmen has indicated it was 03:48PM

25 her error, she made a mistake and she does note it was already 03:48PM

1 admitted. You were correct. 03:48PM

2 MS. M. MILLER: So 3003-14 is in? 03:48PM

3 THE COURT: Yes. 03:48PM

4 MS. M. MILLER: Because we had it out. 03:48PM

5 MS. MCCONWELL: Well, as I said -- 03:48PM

6 THE COURT: No. Anyway, long story short, Carmen 03:48PM

7 said it's in because she verified it with the court reporter. 03:48PM

8 MS. M. MILLER: Okay. 03:48PM

9 THE CLERK: And also the recording, Your Honor -- 03:48PM

10 THE COURT: The recording. 03:48PM

11 THE CLERK: -- I verified with the recording. 03:48PM

12 THE COURT: Okay. 03:48PM

13 THE CLERK: It's ECF 1691, the transcript. 03:48PM

14 MS. M. MILLER: Well, one of the problems is, I 03:48PM

15 just finished with this witness and I had no knowledge that 03:48PM

16 that exhibit was in, and I could have used that exhibit with 03:48PM

17 3003-15 to show which aircraft were transferred. So I'm going 03:48PM

18 to ask the Court to allow me, with this information, to reopen 03:48PM

19 my redirect, because it would be appropriate for me to be able 03:48PM

20 to tie that to 15 and finish out that examination. Otherwise, 03:48PM

21 I am in a situation where Counsel can now question potentially 03:49PM

22 the witness regarding that, and I haven't had an opportunity 03:49PM

23 to because we had it as not admitted. 03:49PM

24 THE COURT: All right. So -- 03:49PM

25 MR. MARTIN: Your Honor, it's not our fault they 03:49PM

1 don't know what exhibits are in or out. That's why we ask
2 questions.

3 THE COURT: Yeah, but Ms. --

4 MS. M. MILLER: But she had it as not admitted.

5 THE COURT: Hold on. So there was a mistake. My
6 courtroom clerk made a mistake just like some other people
7 might have made a mistake. My court reporter confirmed that
8 it was admitted and the FTR confirms that. So -- okay, so we
9 have human error and whatever. So let's just move on. I
10 don't think I disagree -- I agree with the prosecutor, if they
11 needed to just come back in and clean it up before we pass the
12 witness to the defense. So I'll allow that. But it's very
13 limited questioning. How many questions?

14 MS. M. MILLER: No, it will be limited
15 questioning, but --

16 THE COURT: Like how many questions?

17 MS. M. MILLER: I don't know right now, but I
18 will tell Your Honor Monday morning, and it will be limited.

19 THE COURT: All right. I think it's fair. Yes,
20 Ms. McConwell?

21 MS. MCCONWELL: Well, I'm going to -- I don't
22 know that it's fair, and I'm going to tell you why. Because
23 yesterday when we had our conversation with you outside the
24 presence of the jury and Ms. Miller went through the exhibits
25 that she wanted to use, she told us she wanted to use 3003-15.

1 She never said she wanted to use 14. All along she's always
2 said she wanted to get 3000 -- 3003-15 in. She never asked to
3 also have 3003-14 admitted.

4 MS. M. MILLER: That's right, because my
5 assumption was -- if you recall, Your Honor, we tried to
6 introduce the entirety of 3003, and we were not permitted to
7 introduce the entirety because the defense objected to it.
8 And as a result, only certain pages were introduced. And we
9 relied on what we confirmed with Ms. Santos that 14 was not
10 one of the pages introduced. That is not our fault.

11 THE COURT: All right. All right. So -- okay,
12 look. I think it's -- okay. However way it shakes out, the
13 exhibit has been admitted, and it was erroneously usually
14 said -- it was erroneously represented that it was not.
15 Officially, officially by the Court.

16 MS. MCCONWELL: Well, Ms. Miller was asking to
17 have a new exhibit admitted and 3003-15. She could have also
18 asked yesterday that she wanted to have 3003-14 admitted along
19 with 15. She didn't want to do that. She only wanted 3003-15
20 admitted.

21 MS. M. MILLER: Your Honor --

22 THE COURT: Let's not keep going back because,
23 you know, I'm getting headaches.

24 MS. M. MILLER: I know.

25 THE COURT: And I never get headaches. I tell

1 you, I rarely get headaches, and I've only gotten headaches in 03:51PM
2 this trial. Let me just say -- I really do, I'm serious. So 03:51PM
3 let me just say, look, I'm going to allow the prosecution -- 03:51PM
4 because the exhibit's already been admitted, if it was in 03:51PM
5 your -- if it was -- you know, the tide were turned here, I 03:51PM
6 would do the same thing. I'm going to allow the prosecution 03:52PM
7 to continue with the witness because he hasn't been obviously 03:52PM
8 turned over. Focus your questions just narrowly on those 03:52PM
9 exhibits. And then defense can do their recross-examination 03:52PM
10 on the exhibits -- the newer exhibits that were admitted 03:52PM
11 throughout the redirect. I will allow that. Okay? That's 03:52PM
12 fair. 03:52PM

13 MS. MCCONWELL: So it's limited to 3003-14? 03:52PM

14 THE COURT: Yeah, that's all she's going to talk 03:52PM
15 about. 03:52PM

16 MS. S. MILLER: 2939, Pages 82 and 83. 03:52PM

17 MS. MCCONWELL: Well, we've already talked about 03:52PM
18 that. We've already talked about 2939-82 and 83. 03:52PM

19 MR. MARTIN: We're talking about reopening 03:52PM
20 direct. 03:52PM

21 THE COURT: Okay. So yeah, so direct, she's only 03:52PM
22 going to focus on that 3003-14. 03:52PM

23 MS. M. MILLER: Yes. 03:52PM

24 THE COURT: And then it will be passing over to 03:52PM
25 the two of you if you wish to speak or query the witness on 03:52PM

1 all the new exhibits that were introduced during the redirect
2 examination.

3 MS. M. MILLER: And I will ask Your Honor, in the
4 future, if Ms. McConwell is going to make an inquiry about
5 whether an exhibit has or has not been admitted and there's a
6 decision that there was an error, that we be included in any
7 of that correspondence, because otherwise, it would -- it
8 would not be appropriate. If Ms. Santos did confirm that that
9 was admitted and Ms. McConwell then confirmed that it was
10 admitted but they didn't let the government know, I'm confused
11 about why that would be the case when the minutes indicated
12 that it was not admitted.

13 THE COURT: All right. Yeah.

14 MS. MCCONWELL: Your Honor, then it goes both
15 ways. Because --

16 THE COURT: What goes both ways?

17 MS. MCCONWELL: Because the agent came up --
18 has -- continually comes up to ask Ms. Santos about what's
19 been admitted, and I'm not jumping him.

20 THE COURT: Yeah. Listen -- yeah.

21 MS. M. MILLER: But if there was ever a
22 situation --

23 THE COURT: Let's just say -- look, look, we're
24 on Guam. This is not like we have to get into, like, little
25 knit-picky, like, should I talk to the court reporter, should

1 I talk to the courtroom clerk? Yeah. So...

03:54PM

2 (Discussion with clerk.)

03:54PM

3 THE CLERK: The transcript with regard to 3003
4 was docketed August 16th, and it does state that 3003 was
5 filed.

03:54PM

03:54PM

03:54PM

6 THE COURT: Yeah.

03:54PM

7 THE CLERK: So, sorry. That's where I picked it
8 up.

03:54PM

03:54PM

9 THE COURT: Yeah. Don't worry about it. Listen.
10 Everybody had noted -- if you guys want to, like, clear this
11 up with Carmen, talk to her, you can. But I'm going to allow
12 you to -- if you need to come talk to my clerk and my court
13 reporter informally about exhibits, it's fine to do that. I
14 don't have a problem with you doing it individually. I mean,
15 you know, you're all officers of the court.

03:54PM

03:54PM

03:54PM

03:54PM

03:54PM

03:54PM

03:54PM

16 MS. M. MILLER: And I'm not suggesting that's a
17 problem. What I'm saying, though, is, if the minutes indicate
18 that something was not admitted and then there is a
19 correction --

03:54PM

03:54PM

03:55PM

03:55PM

20 THE COURT: Okay.

03:55PM

21 MS. M. MILLER: All parties need to know that a
22 correction was made and that an exhibit is now admitted and
23 available.

03:55PM

03:55PM

03:55PM

24 THE COURT: Well, a dispute -- all right. So at
25 this point, I'm not going to order that -- I mean, I don't

03:55PM

03:55PM

1 think we have to get to that point yet. I'd rather you just
2 calm down, everybody, and -- you know. All right. I'll see
3 you Monday. Okay. Let's see.

4 THE WITNESS: Take care, Your Honor. Thank you.

5 THE COURT: Thank you.

6 (Proceedings concluded at 3:55 p.m.)

7 * * *

1 August 22, 2022; 8:40 a.m.; Hagatna, Guam 08:12AM

2 * * * 08:12AM

3
4 THE COURT: All right, good morning, everyone. 08:12AM
5 Are we ready to go? All the jurors are present now? 08:40AM

6 MS. M. MILLER: And, Your Honor, I'm not going to 08:40AM
7 ask Special Agent Khamvongsa any questions about 3003-14. So 08:40AM
8 we could go straight to recross. 08:40AM

9 THE COURT: Oh, very good. Okay. You ready to 08:41AM
10 go? Did we -- is there anything left that -- did I forget 08:41AM
11 anything? (Laughing.) I -- I will say -- sorry, I still have 08:41AM
12 a little -- still a little cough. So I'll try to contain it. 08:41AM

13 So there was nothing else further, right? I 08:41AM
14 mean, just that you guys wanted to recross, and I made my 08:41AM
15 ruling that we can contain -- I mean we'll limit to the new 08:41AM
16 exhibits that you all had heard about on re- -- 08:41AM

17 MS. M. MILLER: Redirect. 08:41AM

18 THE COURT: Right. Right, is that it? 08:41AM

19 MS. M. MILLER: Yes. 08:41AM

20 THE COURT: That was last thing I recall? 08:41AM

21 MS. M. MILLER: Yes. 08:41AM

22 THE COURT: Okay. So we'll call -- we'll call in 08:41AM
23 the jury. And the agent is here? 08:41AM

24 MS. M. MILLER: Yes. 08:41AM

25 THE COURT: Oh, there you are. You're always 08:41AM

Redirect - Khamvongsa

1 there.

08:41AM

2 MS. M. MILLER: He was here all weekend.

08:41AM

3 (Laughing.)

08:41AM

4 THE WITNESS: I've been waiting patiently.

08:41AM

5 THE COURT: Oh, poor guy. The longest witness

08:42AM

6 ever. All right. So we'll call in the jury, and then I --

08:42AM

7 the Court also will be prepared to -- I've already written a

08:42AM

8 decision, an order on the United States Attorney's motion for

08:42AM

9 an order permitting testimony and evidence of Defendants'

08:42AM

10 alter ego shell companies. So I will -- I will send that out

08:42AM

11 to you guys right after -- why don't we do that after -- we'll

08:42AM

12 talk about that after this witness? You want to do that?

08:42AM

13 MS. M. MILLER: Sounds good, Your Honor. Thank
14 you.

08:42AM

08:42AM

15 MR. MARTIN: Sure.

08:42AM

16 THE COURT: Okay. We'll do that. And... yeah,

08:42AM

17 let's do that afterwards, let's just focus on this. I don't

08:42AM

18 want to send it to you now, and then you're going to get

08:42AM

19 thinking about others things. Let's focus on trying to

08:42AM

20 complete the testimony of this witness. And then -- then

08:42AM

21 after he's done, which will be -- how long do you think you'll

08:42AM

22 be, Mr. Martin, and -- based on what you know? Approximately.

08:42AM

23 MR. MCCONWELL: I have no questions, Your Honor.

08:43AM

24 THE COURT: Oh, Mr. McConwell has none.

08:43AM

25 How about you, Mr. Martin?

08:43AM

1 MR. MARTIN: 10, 20 minutes max, Your Honor. 08:43AM

2 THE COURT: Then you'll have Mr. Guzzetti ready? 08:43AM

3 MS. M. MILLER: Yes, Your Honor. He's ready. 08:43AM

4 THE COURT: Okay. Excellent. And then he'll be 08:43AM
5 ready. And then you said you might have him for four hours 08:43AM
6 today approximately? 08:43AM

7 MS. M. MILLER: Yes, Your Honor. 08:43AM

8 THE COURT: Okay. All right. So what we'll do 08:43AM
9 is... um... let's finish him, let's finish this agent. And 08:43AM
10 then I will issue my decision, you guys might want to take a 08:43AM
11 few minutes to read it. And then we could talk about it. 08:43AM

12 The only thing I might have to do -- I'm just 08:43AM
13 trying to decide if I'm going to go to mass or go to a 08:43AM
14 viewing. I do have a cousin who died, and I did not know 08:43AM
15 today was his viewing, but I'll let you know that. It's just 08:43AM
16 down the street. If I go to the viewing, it will only take me 08:43AM
17 15 minutes. Please rise for the jury. So I can do it during 08:43AM
18 a recess just to be efficient. 08:43AM

19 MS. M. MILLER: Yes, Your Honor. 08:43AM

20 (Jury in at 8:43 a.m.) 08:43AM

21 THE COURT: All right. Please be seated, ladies 08:44AM
22 and gentlemen of the jury. We'll continue on with the 08:44AM
23 examination of Agent Khamvongsa. And Mr. Martin will have an 08:44AM
24 opportunity to conduct a recross-examination. Yes, 08:44AM
25 Mr. Martin. 08:44AM

1 MR. MARTIN: Thank you, Your Honor. Morning,
2 ladies and gentlemen.

3 THE JURY: Morning.

4 MR. MARTIN: Good morning, Agent Khamvongsa.

5 THE WITNESS: Good morning, sir.

6
7 RECROSS-EXAMINATION

8 BY MR. MARTIN:

9 Q. When we recessed -- pardon me, I didn't have my
10 microphone on. When we recessed Friday, you had just finished
11 your testimony, sir, and in particular, I think you were
12 testifying about Government's Exhibit 3003-15.

13 If we could briefly pull that up.

14 And that had to do with the sale of some aircraft,
15 did it not, sir, to Pacific Spotters; correct?

16 A. No.

17 Q. It did not have to do with sale of aircraft to
18 Pacific Spotters?

19 A. No.

20 Q. All right. And who did it have to do with aircraft
21 --

22 A. It actually had to do the sale of scrap.

23 Q. Okay, sir. Let's go, sir, to Exhibit 30014[sic]
24 that's already been introduced into evidence.

25 Would you agree with me, sir, that 300.314 is the

1 bill of sale that relates to 300.15 that I just asked you 08:46AM
2 questions about, sir? 08:46AM

3 A. What's reflected here is purported to be -- 08:46AM

4 Q. Would you agree, sir, that that relates to the bill 08:46AM
5 of sale in 300.15, that's the bill of sale for the property 08:47AM
6 that's in 300.15, sir, would you agree with that? That's a 08:47AM
7 yes or no? Do you agree or not? 08:47AM

8 A. Just to clarify, just this page matches up with the 08:47AM
9 previous -- the page 3003-15; correct? That's it? 08:47AM

10 Q. That's it. 08:47AM

11 A. Yes, this page goes to that. 08:47AM

12 Q. And at the top, it says it's a bill of sale, doesn't 08:47AM
13 it, sir? 08:47AM

14 A. It does say bill of sale. 08:47AM

15 Q. Right. And -- and it says it is a bill of sale from 08:47AM
16 Jan's Helicopter Services, and we know to Pacific Spotters; 08:47AM
17 correct, sir? 08:47AM

18 A. It is from -- it does represent on this document 08:47AM
19 Jan's Helicopter Service to Pacific Spotters Corporation. 08:47AM

20 Q. And it deals with the sale of aircraft -- if we can 08:47AM
21 go back up to the top, please. 08:47AM

22 It deals with the sale of what is collectively known 08:48AM
23 as aircraft from Jan's Helicopter Services; correct, sir? 08:48AM

24 A. No. 08:48AM

25 Q. Okay. And if we can go up to right about there. 08:48AM

1 Just go right up there. That's where I want to be. 08:48AM

2 Are you telling me that those items that are listed 08:48AM
3 there are not aircraft, sir? 08:48AM

4 A. You're negating the second page where they say -- 08:48AM

5 Q. I asked you about the items listed on this page. 08:48AM
6 I'll get to the second page, okay, sir. 08:49AM

7 This is not going to take ten minutes, Judge. And I 08:49AM
8 apologize. 08:49AM

9 We're on page 300.3.14. That's the only page I'm 08:49AM
10 talking about. 08:49AM

11 A. Okay. So -- 08:49AM

12 Q. All right. Would you agree with me, sir, that the 08:49AM
13 items listed there are aircraft? 08:49AM

14 A. The items listed here are purported to be aircraft. 08:49AM

15 Q. Okay. And will you agree with me, sir, and if we 08:49AM
16 need to raise this, you can you count them, that there purport 08:49AM
17 to be 17 aircraft on that page? 08:49AM

18 A. Yes, 17. 08:49AM

19 Q. Okay. 08:49AM

20 A. I will agree with 17. 08:49AM

21 Q. All right. And will you agree with me, sir, that 08:49AM
22 they were sold for \$340,000 for all of 'em? 08:49AM

23 A. I will not -- I disagree. 08:49AM

24 Q. All right. Would you agree with me, sir, if we can 08:49AM
25 go to page 303 -- 3003.15, stop right there. That the total 08:50AM

1 amount of the sale was \$340,000?

08:50AM

2 A. This document represents \$340,000. May have
3 happened, but the exchange was basically between Jon Walker
4 and Jon Walker. So there is no real exchange of money.

08:50AM

08:50AM

08:50AM

5 Q. I'm asking you -- I didn't ask you about your
6 opinion. I asked you what's on that page, sir. Does that
7 page represent that there was a sale for \$340,000? What's on
8 that page?

08:50AM

08:50AM

08:50AM

08:50AM

9 A. This page does reflect \$340,000, yes.

08:50AM

10 Q. And as a matter of fact, you testified Friday that
11 the value of these aircraft, as I recall, was almost
12 \$14 million, do you recall that, sir?

08:50AM

08:50AM

08:50AM

13 A. What I testified to was that there was an
14 inconsistency with what's reflected here and what's on Hansen
15 Helicopters -- or Wilma's Flight Services, Inc. balance sheet,
16 which reflected a \$14 million aircrafts, their inventory.

08:51AM

08:51AM

08:51AM

08:51AM

17 Q. And you will agree with me, won't you, sir, if we'll
18 go back up to 3003.14, that is not their inventory, is it,
19 sir? Will you agree with that?

08:51AM

08:51AM

08:51AM

20 A. Who is their inventory?

08:51AM

21 Q. You just said that there is an inconsistency in the
22 inventory. That is not the inventory, is it, sir?

08:51AM

08:51AM

23 A. For Hansen Helicopters or Jan's Helicopter Service?
24 Or Pacific Spotters Corporation?

08:51AM

08:51AM

25 Q. I'm talking to you, sir, about your prior testimony.

08:51AM

1 A. Correct.

08:51AM

2 Q. Do you recall testifying --

08:51AM

3 A. So --

08:51AM

4 Q. Do you recall testifying Friday that there was
5 approximately \$14 million in inventory of helicopters? Do you
6 recall that, sir?

08:51AM

08:51AM

08:52AM

7 A. Absolutely, yes, it's on the balance sheet that's
8 reflected on the --

08:52AM

08:52AM

9 Q. This is not that inventory, is it?

08:52AM

10 MS. M. MILLER: Your Honor, for the record, could
11 we have just the witness be able to answer then -- because
12 otherwise, it's not -- the record is not going to be clear.

08:52AM

08:52AM

08:52AM

13 THE COURT: Good point.

08:52AM

14 MR. MARTIN: If he would answer, Your Honor, we'd
15 get a lot better, but he's just arguing with me.

08:52AM

08:52AM

16 My question is --

08:52AM

17 THE COURT: Okay. Well --

08:52AM

18 MS. M. MILLER: Your Honor, I'm going move to
19 strike that.

08:52AM

08:52AM

20 THE COURT: Okay. Let's -- motion granted.

08:52AM

21 Stricken. Please disregard it, ladies and gentlemen of the
22 jury. So Mr. -- hold on. So Mr. -- Agent, make sure that --
23 listen to the question, and just answer the question. So if
24 it calls for yes or no, just answer yes or no, if you could
25 answer yes or no. But just answer the questions.

08:52AM

08:52AM

08:52AM

08:52AM

08:52AM

1 THE WITNESS: Yes, Your Honor.

08:52AM

2 THE COURT: And then Mr. Martin, let's not get
3 excited. Let's calm down. You guys -- we're almost at the
4 finish line, team. So let's do it.

08:52AM

08:52AM

08:52AM

5 Okay. Go ahead.

08:52AM

6 BY MR. MARTIN: (CONTINUING)

08:52AM

7 Q. Agent Khamvongsa, 3003.14, is not the inventory, is
8 it, sir?

08:52AM

08:53AM

9 A. It is the inventory.

08:53AM

10 Q. I'm going to show you what's already been shown to
11 you multiple times. It's from the indictment. It's paragraph
12 126, sir.

08:53AM

08:53AM

08:53AM

13 Sir, do you see part of paragraph 126 there?

08:54AM

14 A. Yes, I see part of it.

08:54AM

15 Q. All right. And those are aircraft, are they not,
16 sir?

08:54AM

08:54AM

17 A. These are U.S.-registered aircraft; yes.

08:54AM

18 Q. Okay. Let's just deal with page 34, right there.

08:54AM

19 How many aircraft are listed on that page?

08:54AM

20 A. 20, on page 34.

08:54AM

21 Q. 20. Okay. Let's go up to page 35.

08:54AM

22 How many aircraft are listed on page 35, sir?

08:54AM

23 A. I believe it's 50.

08:54AM

24 Q. And so 20 plus 50, will you agree with me, that's 70
25 aircraft listed in -- listed in the indictment in

08:55AM

08:55AM

1 paragraph 126, sir?

08:55AM

2 A. Yes, around that much. Yeah. Yes.

08:55AM

3 Q. And will you agree with me, sir, that 17 is less than
4 70?

08:55AM

08:55AM

5 A. I will agree with you that the number 17 is less than
6 70.

08:55AM

08:55AM

7 Q. Okay. And, sir, you made reference, I believe, to, I
8 think it's... Exhibit 2939 on Friday, do you recall that, sir?

08:55AM

08:55AM

9 That's the -- that's the -- let me be more specific for you.

08:56AM

10 I apologize. That's the -- I believe, the records for the

08:56AM

11 Community First Bank of Guam; do you recall that?

08:56AM

12 A. I recall the log, I'm just not 100% sure the exhibit
13 number matches up with the document.

08:56AM

08:56AM

14 Q. Okay. Well, let's go to 2939, if we could.

08:56AM

15 A. Thank you.

08:56AM

16 Q. Does that aid your recollection, sir?

08:56AM

17 A. The signature card member application for Community
18 First Guam Federal Credit Union, yes, sir. For one year of
19 service.

08:56AM

08:56AM

20 Q. Right, right. And you testified about that Friday,
21 do you recall that, sir?

08:56AM

08:56AM

22 A. Yes, sir.

08:56AM

23 Q. As a matter of fact, if -- if we look, for example,
24 you mentioned that it was a -- the signature card. Those are
25 the people that are authorized to write checks and wires, do

08:56AM

08:56AM

08:57AM

1 things relating to that account, right?

08:57AM

2 A. Those are individuals that are signers on the
3 account; yes.

08:57AM

08:57AM

4 Q. Okay. Jon Walker is not on that account as a
5 signatory, is he, sir?

08:57AM

08:57AM

6 A. His name literally isn't on this.

08:57AM

7 Q. He is not a signatory; correct, sir?

08:57AM

8 A. Yes.

08:57AM

9 Q. Okay. Now, you testified, sir, in particular, about
10 Government's Exhibit 366-23, I believe that was aircraft
11 number, if we could pull that up, aircraft number N74AM. Do
12 you recall that aircraft? It was from the list of those that
13 I had shown you that Ms. Miller cross-examined -- or direct
14 examined you about?

08:57AM

08:57AM

08:57AM

08:57AM

08:57AM

08:57AM

15 A. I believe this is the one with Fling Air and the Guam
16 address?

08:57AM

08:57AM

17 Q. Absolutely, sir.

08:58AM

18 A. Correct.

08:58AM

19 Q. Absolutely. And as you'll recall, those records came
20 from Jon Walker -- were sent to Jon Walker's friend, the
21 lawyer who was going to put together the business plan for
22 him, right?

08:58AM

08:58AM

08:58AM

08:58AM

23 A. I don't know if that's his friend or not.

08:58AM

24 Q. I'm sorry?

08:58AM

25 A. I don't know if that's Jon Walker's friend or not. I

08:58AM

1 just know, based upon the information, it appeared to be a
2 potential buyer.

3 MS. M. MILLER: Your Honor, I'm going to move to
4 strike, assumes facts not in evidence.

5 MR. MARTIN: You've read everything -- I'll
6 withdraw the question.

7 THE COURT: All right. Question withdrawn,
8 answer withdrawn -- stricken. Go ahead.

9 BY MR. MARTIN: (CONTINUING)

10 Q. You've reviewed everything in this case?

11 A. I have.

12 Q. And you know from reviewing everything in this case,
13 number one, he's a lawyer, right?

14 A. Don't recall if he's a lawyer or not.

15 Q. If we could look at Government's Exhibit -- not being
16 introduced, but for you, 3007.

17 MS. M. MILLER: Your Honor, I'm going to object.
18 We're going outside the scope right now of my redirect.

19 MR. MARTIN: It's impeachment, Your Honor.

20 THE COURT: Okay.

21 MR. MARTIN: It's clear impeachment.

22 THE COURT: Impeachment? All right. Overruled.

23 MS. M. MILLER: Can I have clarity on what's
24 being impeached?

25 MR. MARTIN: When the exhibit comes up it will be

1 --

08:59AM

2 THE COURT: Well, I think the last question?

08:59AM

3 MR. MARTIN: The last question.

08:59AM

4 THE COURT: Well, let's see.

08:59AM

5 MS. M. MILLER: Well, here's the problem with
6 that question, Counsel had represented that that attorney was
7 Mr. Walker's attorney, Then he withdrew that representation.

08:59AM

08:59AM

8 MR. MARTIN: We're doing a speaking --

08:59AM

9 THE COURT: Counsel.

08:59AM

10 MR. MARTIN: We have a speaking objection.

08:59AM

11 THE COURT: The Court will overrule the
12 objection. Overruled.

08:59AM

08:59AM

13 MR. MARTIN: This is not in evidence, Your Honor.
14 If we need to do something --

08:59AM

08:59AM

15 THE COURT: All right. So okay it's not in
16 evidence. All right. So just show the Counsel.

08:59AM

08:59AM

17 BY MR. MARTIN: (CONTINUING)

08:59AM

18 Q. Sir, do you recognize what's been marked for
19 identification purposes as Government's Exhibit 3007-1, sir?

08:59AM

08:59AM

20 A. It looks familiar.

08:59AM

21 Q. Well, that's the government's exhibit, isn't it?

08:59AM

22 A. I reviewed a lot of documents so --

08:59AM

23 Q. My question was, is that a government's exhibit?

09:00AM

24 A. 3007-1, yes.

09:00AM

25 Q. Okay. And you, I believe, testified you've seen

09:00AM

1 everything in this case; correct, sir?

2 A. I've seen a lot of documents just like you have.

3 MR. MARTIN: All right. And, Your Honor, I move
4 for the introduction of Government's Exhibit 3007.

5 THE COURT: Okay. Any objections, Counsel?

6 MS. M. MILLER: Yes, Your Honor. I object,
7 outside the scope, I object on the basis of hearsay. It's not
8 being offered by a party opponent. And I object on the basis
9 of relevance.

10 MR. MARTIN: Your Honor.

11 THE COURT: Okay. Relevance is overruled. But
12 beyond -- okay. And beyond the scope, that's overruled on
13 impeachment. What was the third objection?

14 MS. M. MILLER: Hearsay, Your Honor.

15 THE COURT: Hearsay?

16 MR. MARTIN: It's impeachment, Your Honor.

17 MS. M. MILLER: That -- just because it's
18 impeachment doesn't except it from the hearsay rule, Your
19 Honor.

20 THE COURT: Anything further? Anything further?

21 MS. M. MILLER: No.

22 MR. MARTIN: Your Honor, it's not impeachment
23 under the government's theory in that they say it's a
24 co-conspirator statement.

25 THE COURT: Okay.

1 MS. M. MILLER: Well, Your Honor, but it -- I 09:01AM
2 would have to offer it. 09:01AM
3 THE COURT: Okay. Yes, Ms. McConwell? 09:01AM
4 MS. MCCONWELL: The -- 09:01AM
5 THE COURT: I'm sorry, can you speak a little 09:01AM
6 louder? 09:01AM
7 MS. MCCONWELL: Yes. The agent had previously 09:01AM
8 testified that it was an investor that was being communicated 09:01AM
9 with in other exhibits, and Ms. Miller also made that 09:01AM
10 representation. And so this directly affects his knowledge of 09:01AM
11 who the identity of Mr. Ferruzzo is. 09:01AM
12 MS. M. MILLER: There is absolutely nothing in 09:01AM
13 this document that is contrary to that representation. 09:01AM
14 THE COURT: All right. 09:01AM
15 MS. M. MILLER: As a matter of fact, Your Honor, 09:01AM
16 there's been a piece of evidence that has been admitted, which 09:01AM
17 is Exhibit 425, which has this person's name on it and the 09:01AM
18 fact that he is part of a law firm -- 09:01AM
19 THE COURT: Okay. Well, Court will overrule the 09:01AM
20 objection. Go ahead, proceed. 09:01AM
21 MR. MARTIN: May we publish it to the jury, Your 09:01AM
22 Honor? 09:01AM
23 THE COURT: You may. 3007-1 admitted over 09:01AM
24 objection and may be published. 09:02AM
25 (Exhibit 3007-1 admitted.) 09:02AM

1 BY MR. MARTIN: (CONTINUING)

2 Q. Agent Khamvongsa, would you agree with me that this
3 -- the lower portion of this is an e-mail from Jon Walker to
4 Rufus Crowe, sir?

5 A. Yes, from Jon Walker to Rufus Crowe.

6 Q. And will you read to the ladies and gentlemen of the
7 jury where I've marked where it says "Rufus," would you read
8 that to the ladies and gentlemen of the jury?

9 A. "Rufus, I hired a legal firm to help with the company
10 sale. It's Greg Ferruzzo and his uncle Tom Ferruzzo. Greg
11 races with us. I'm not sure if you met him or not when you
12 were in Baja. They operate some huge law firm in Long Beach.
13 They'll be calling and e-mailing you and Les. Give them
14 whatever they need. Thanks, Jon."

15 Q. Does that refresh your memory, sir, as to who Tom
16 Ferruzzo and Greg Ferruzzo are, sir?

17 A. The name Tom Ferruzzo is familiar. Greg Ferruzzo,
18 I'm not -- this is the first that I can remember the name
19 coming up.

20 Q. So your answer is -- let me rephrase the question.
21 Does it refresh your memory as to who Tom Ferruzzo is, sir?

22 A. Yes.

23 Q. He's a lawyer; correct, sir?

24 A. (Pause.) Uhh, he's represented as -- as being part
25 of the legal firm.

1 Q. Okay. If we could go to 366, Government's Exhibit
2 366.

3 And, sir, do you see that e-mail?

4 A. Yes.

5 Q. This has already been introduced. And who is the
6 e-mail to, sir?

7 A. Tom Ferruzzo, the name that I'm familiar with.

8 Q. The gentleman we just talked about?

9 A. As it relates to this e-mail, yes.

10 Q. Okay. And this -- as a matter of fact, it's on the
11 same day, isn't it? I don't know if we need to go back to the
12 other e-mail, but I'll represent to you that both e-mails were
13 sent on October 5th, and if you don't believe me, I'm happy to
14 go back.

15 A. Yes, please.

16 Q. Okay. Let's go back to 3007. The date here is
17 Wednesday, October 5th, right, 2016?

18 A. That's what's represented there, yes.

19 Q. Okay. And tell me what the date is on the one that's
20 getting ready to come up. Will you tell us what the date is?

21 A. October 6th, 2016.

22 Q. Okay. And the date at the top from Rufus?

23 A. October 5th, 2016.

24 Q. Okay. They're all within the same general time
25 frame, right?

1 A. Yes.

09:05AM

2 Q. And you'll agree with me that Guam is several hours
3 ahead of the United States, right, sir?

09:05AM

4 A. Yes.

09:05AM

5 Q. In the time -- in the time -- okay. Now, in this
6 e-mail that's on -- that's here, if we can go to -- I think I
7 was asking you about Fling Air, and, I believe, it's on
8 page 23 of this exhibit. If we can -- don't move it.

09:05AM

09:05AM

09:05AM

09:05AM

9 MS. MCCONWELL: I'm sorry.

09:05AM

10 BY MR. MARTIN: (CONTINUING)

09:05AM

11 Q. All right. Do you see where I put the dot, sir?

09:05AM

12 A. Yes.

09:05AM

13 Q. And that's Fling Air?

09:05AM

14 A. Yes.

09:05AM

15 Q. And that's the one that we said shows that it's in
16 Guam, right, sir?

09:05AM

09:06AM

17 A. Yes.

09:06AM

18 Q. Okay. And we -- we talked about this the other day,
19 and maybe you forgot it when you were testifying Friday, but
20 next to state, the word "foreign" is inserted. Do you see
21 that sir?

09:06AM

09:06AM

09:06AM

09:06AM

22 A. It's purported to be foreign on the document.

09:06AM

23 Q. Well, the word "foreign" is inserted; correct, sir,
24 just the word "foreign" is inserted?

09:06AM

09:06AM

25 A. For this document, the word "foreign" is listed on

09:06AM

1 this document.

09:06AM

2 Q. Okay. And this is a document that was created by the
3 Federal Aviation Administration; correct, sir?

09:06AM

09:06AM

4 A. Well, it was actually created by Jon Walker, who
5 would have submitted the document.

09:06AM

09:06AM

6 Q. Now, this document that's on the page, Jon Walker
7 didn't create this page, did he, sir?

09:06AM

09:06AM

8 A. If we're just talking about what's on the page --

09:06AM

9 Q. I'm asking you, the page that is being disclosed to
10 you, Government's Exhibit 366-23, that document was prepared
11 by the Federal Aviation Administration, one of their
12 employees; correct, sir?

09:06AM

09:06AM

09:07AM

09:07AM

13 A. No.

09:07AM

14 Q. Who prepared it? Who prepared that page?

09:07AM

15 A. Jon Walker, because they rely -- all this information
16 is dependent upon what the individual submits to the FAA
17 registry.

09:07AM

09:07AM

09:07AM

18 Q. So you're saying that although Jon Walker's name is
19 nowhere on this page, he sat down at a computer and a
20 typewriter and typed all these numbers and letters and
21 everything out. Is that what you're telling the ladies and
22 gentlemen of the jury?

09:07AM

09:07AM

09:07AM

09:07AM

09:07AM

23 A. No, that's incorrect.

09:07AM

24 Q. Well, somebody at the FAA prepared this document,
25 isn't that true, sir?

09:07AM

09:07AM

1 A. They relied -- no, they relied on Jon Walker's input.
2 It relies on a document submitted to the FAA.

3 Q. Let me ask you a question, sir. I want you to think
4 about it.

5 A. Okay.

6 Q. Did I ask you anything about anybody relying on
7 anything?

8 A. Your question --

9 Q. Did I ask you anything about anybody relying on
10 anything?

11 A. Not specifically the word "rely."

12 Q. So the answer is, no, you didn't, Mr. Martin?

13 A. Sorry. I wasn't sure if that was a question or a
14 statement.

15 Q. The question was -- so the answer is, no, you didn't
16 ask me anything about reliance, Mr. Martin.

17 MS. M. MILLER: Your Honor, I'm going to object.

18 BY MR. MARTIN: (CONTINUING)

19 Q. Do you agree with that?

20 MS. M. MILLER: I'm trying to object.

21 THE COURT: I'm sorry. What's your objection?

22 MS. M. MILLER: Basis of argumentative, Your
23 Honor. He now wants to tell the witness this is how I want
24 you to answer. Is the witness being scolded like a child?

25 MR. MARTIN: Is that an objection, Your Honor?

1 That wasn't a scold, it was a question. I asked him if I
2 asked him about reliance.

3 THE COURT: All right. Whatever it was,
4 objection or not, overruled. Just answer the question.

5 Did you understand his last question on reliance?

6 THE WITNESS: Sorry. Go ahead and ask it again.
7 Again, I wasn't sure if it was a statement or a question.

8 THE COURT: All right.

9 BY MR. MARTIN: (CONTINUING)

10 Q. Isn't it true I didn't ask you anything about anybody
11 relying on anything?

12 A. No.

13 Q. You disagree with that?

14 A. In the question -- the -- specifically the word
15 "rely," you're right; correct.

16 Q. Okay.

17 MR. MARTIN: Your Honor, I need just a second.

18 THE COURT: Sure. That's fine.

19 BY MR. MARTIN: (CONTINUING)

20 Q. Would you agree with me, sir, that the exhibit we
21 just had up, which was 366-23 relating to Fling Air, somebody
22 told the FAA it was a foreign corporation?

23 A. Somebody.

24 Q. Okay.

25 MR. MARTIN: No further questions.

1 THE COURT: No further questions. Mr. McConwell,
2 or Ms. McConwell, any questions?

3 MS. MCCONWELL: No, ma'am.

4 THE COURT: No, okay. Very well.

5 MS. M. MILLER: Only one question, Your Honor.

6 THE COURT: Oh, okay. Yes.

7
8 REDIRECT EXAMINATION

9 BY MS. M. MILLER:

10 Q. So Special Agent Khamvongsa, based on what we just
11 heard from Mr. Martin, everything in Exhibit 366 was produced
12 at the request of Jon Walker to attorneys representing him
13 when he tried to sell his company?

14 A. Yes.

15 MS. M. MILLER: No further questions, Your Honor.

16 THE COURT: Okay. All right. May we excuse this
17 witness, Counsels?

18 MS. M. MILLER: Yes.

19 THE COURT: Yes?

20 MR. MARTIN: Do we have to, Judge? We're having
21 a good time.

22 THE COURT: Okay. I'm glad somebody is.

23 MS. M. MILLER: Yes, Your Honor.

24 THE COURT: Yeah.

25 MR. MARTIN: He may be excused.

Redirect - Khamvongsa

1 THE COURT: Yes, Ms. McConwell -- 09:12AM

2 MS. MCCONWELL: Yes. 09:12AM

3 THE COURT: So you're excused. Have a nice day. 09:12AM

4 THE WITNESS: Thank you, Your Honor. Thank you. 09:12AM

5 THE COURT: Take care. 09:12AM

6 THE WITNESS: Thank you. 09:12AM

7 THE COURT: How long have we been -- yeah, three 09:12AM

8 -- three minutes. All right. Ladies and gentlemen of the 09:12AM

9 jury, we're going to go ahead and take a 15-minute recess. I 09:12AM

10 want to talk to the attorneys on something real quick before 09:12AM

11 they call their next witness. All right. So please rise, 09:12AM

12 keep an open mind. It's not yet over, but we're almost over. 09:12AM

13 We're almost there. So please rise for the jury. 09:12AM

14 (Jury out at 9:12 a.m.) 09:12AM

15 THE COURT: Okay. Thank you, jury. Thank you. 09:12AM

16 All right. So let me just -- let me just give you my 09:12AM

17 conclusion and I'm going to submit -- send this out to you. 09:12AM

18 It is -- so we got to put the numbers on -- put the page 09:13AM

19 numbers on it. I forgot -- this one didn't have it. Before I 09:13AM

20 -- before I sign off and issue it. But so I wrote a -- how 09:13AM

21 many pages, it's about 15? Emily? 34. 34 pages. Let's 09:13AM

22 backtrack. 34-page -- the Court has issued -- is going to 09:13AM

23 issue a 34-page decision. I'm issuing it today like in the 09:13AM

24 next minute or so. Order regarding, as I'm indicating, United 09:13AM

25 States' motion for order permitting testimony in evidence of 09:13AM

Redirect - Khamvongsa

1 defendant's alter ego shell companies. I'm sorry, I thought
2 it was less, but it actually was back-to-back. I have the
3 back-to-back version.

4 So my conclusion is Alpha Air, let me look at
5 this, Alpha Air, A-L-F-A Air, A-L-P-H-A Air, Americo --
6 Americopters, Bean Bag, Bill's, Bravo, Caledonian, Chance,
7 Charlie, Dave's, Echo, Eddie, Evan, Fidget, Figet, Fling,
8 Foxtrot, H-H, Hansen, Hansen Northern, Heli Fish, Jan's,
9 Jerry's, Jim's, Judy's, Limey, Marlin Bay, O'Hara, Oceanside,
10 Rosie, South Pacific Spotters, Tunacopters, Walk Air, Walker
11 Helicopters, Whirlwide, and Wilma's shall be considered alter
12 egos of Defendant Hansen Helicopters for the purposes of
13 relevancy objections. The Court declines to make a
14 Rule 104(b) finding at this time as to Defendant Hansen
15 Helicopters, Hansen Helicopters Marshall, M-A-R-S-H-A-L-L,
16 Mid-America Turbine, Trafficopters, Vanguard Aviation, Walker
17 Agricola, LLC, and Walker's Helicopters and those -- the
18 reasons for both findings are contained in the 34-page
19 opinion.

20 So do you want -- you guys want take time to
21 review this before we hear from Mr. Guzzetti, or do you want
22 to just go -- I'm going to go ahead and issue it. I'm signing
23 off on it, I'm just going to put on my electronic signature,
24 and we could go forward.

25 MS. M. MILLER: I think we'd like to go forward

1 with Mr. Guzzetti, Your Honor.

09:15AM

2 THE COURT: Okay. And Mr. -- yeah, it's probably
3 a good idea.

09:15AM

09:15AM

4 MR. MARTIN: We kind of like to look at it,
5 Judge. Just so we know that we don't step into something.

09:15AM

09:15AM

6 THE COURT: Okay. Well, I'll give you
7 15 minutes, and if you need more time, just let me know. But
8 I think -- well, you think you can you read -- are you guys
9 fast readers? Did you take speed reading in law school? I
10 did.

09:15AM

09:15AM

09:15AM

09:15AM

09:15AM

11 MS. M. MILLER: Evelyn Wood. Remember?

09:15AM

12 THE COURT: Yeah, I took --

09:15AM

13 MS. M. MILLER: Evelyn Wood.

09:15AM

14 THE COURT: Or what's Stanley Kaplan, was that
15 for LSAT?

09:15AM

09:15AM

16 MS. M. MILLER: That was LSAT.

09:15AM

17 THE COURT: Yeah, I took that too. I needed all
18 the help I could get. All right. So why don't I give you --
19 you want 30 minutes?

09:15AM

09:15AM

09:15AM

20 MS. MCCONWELL: Yes.

09:15AM

21 THE COURT: Well, if I give you 30 minutes, then
22 I could run over -- actually.

09:15AM

09:16AM

23 MS. M. MILLER: Oh, yeah, yeah, yeah.

09:16AM

24 THE COURT: I could run and go to a family
25 viewing for -- for my cousin who passed away. So I could just

09:16AM

09:16AM

1 run up to Sinajana, which is like eight minutes away. 09:16AM

2 MS. MCCONWELL: We'll multitask. 09:16AM

3 MS. M. MILLER: Could we also count this as our 09:16AM
4 morning break? So when the jury does come back after Guzzetti 09:16AM
5 gets on, we can go through lunch. 09:16AM

6 THE COURT: Yeah -- yeah, we can do that -- we 09:16AM
7 can do that. But why don't you review it -- 09:16AM

8 MS. MCCONWELL: Go until lunch. 09:16AM

9 THE COURT: I'm sorry. 09:16AM

10 MS. MCCONWELL: She means go until lunch, not 09:16AM
11 through lunch. 09:16AM

12 THE COURT: Yeah, that's right. So let me go -- 09:16AM
13 I'll sign off on this, you guys will get your electronic 09:16AM
14 copies. And then I think -- I might have another -- I know we 09:16AM
15 worked on something else. Should I issue that one too, or the 09:16AM
16 other one, or no, not yet? 09:16AM

17 MR. MARTIN: There were some summary exhibits 09:16AM
18 objections that we had, Your Honor, that may relate to Mr. 09:16AM
19 Guzzetti's -- 09:16AM

20 THE COURT: Okay. I thought I -- okay. Let me 09:16AM
21 -- let me double-check that. I know -- I know I was -- we 09:16AM
22 were working on these things so -- 09:16AM

23 MS. M. MILLER: And you instructed Counsel, Your 09:16AM
24 Honor, if they had any specific inaccuracy challenges to raise 09:16AM
25 those, and we've gotten nothing from them. So the government 09:17AM

1 would object to having any more protracted arguments on the
2 general admissibility of summary charts.

3 THE COURT: Yeah, yeah, I don't -- I don't want
4 any --

5 MR. MARTIN: That would -- we've never even
6 addressed the issue I just brought up, Your Honor.

7 THE COURT: These are other --

8 MR. MARTIN: They came up with, I think, and I
9 may be wrong on the number, let me just say, multiple summary
10 charts that were not -- I'm not talking about -- they label
11 them as demonstrative exhibits, we call them summary charts
12 that were just produced last week.

13 THE COURT: Okay. Well, okay.

14 MR. MARTIN: And I filed a motion on that.

15 MS. M. MILLER: We did talk about this already.

16 THE COURT: Hold on. Let me just say something.
17 On the demonstrative exhibits that they have put up, they're
18 really just a copy of the indictment, like, they'll just pull
19 up, like, a count. As I recall.

20 MR. MARTIN: Not the ones I'm talking about now,
21 Your Honor. These are related to Mr. Guzzetti, and I filed a
22 motion and, if I -- if you'll give me a second --

23 THE COURT: Let me just ask you, if they're not
24 related to Guzzetti, then we won't worry about that, but were
25 they related to Mr. Klang.

1 MR. MARTIN: They're related to Mr. Guzzetti. 09:17AM
2 The ones -- 09:18AM
3 THE COURT: Oh, they're related to Mister -- oh, 09:18AM
4 to both? Okay. Let me -- let me go back -- hold on, let me 09:18AM
5 -- what was that that you said? 09:18AM
6 MR. MARTIN: I'm talking about the demonstrative 09:18AM
7 aids that Marie e-mailed to me last week. 09:18AM
8 THE COURT: Are you still going to use them? 09:18AM
9 MS. S. MILLER: We're talking -- 09:18AM
10 MS. M. MILLER: I think he's -- I think what he's 09:18AM
11 talking about is when we were addressing the argument for 09:18AM
12 3,315, the admissibility of it. 09:18AM
13 THE COURT: Right, I -- 09:18AM
14 MS. M. MILLER: I had a working document that I 09:18AM
15 produced to Counsel. I don't intend to use that. So if 09:18AM
16 that's what he's talking about, then done, we're done. 09:18AM
17 THE COURT: So why don't we do this rather than 09:18AM
18 discuss it because everybody sounds a little confused. Why 09:18AM
19 not during this next 30 minutes, before you start your 09:18AM
20 30 minutes, talk about if it's true that the United States 09:18AM
21 attorney is not going to use whatever you think you're going 09:18AM
22 to use, then you don't have to discuss it, and you do not have 09:18AM
23 to talk to me about it. 09:18AM
24 MS. M. MILLER: Right. Sounds good, thank you, 09:18AM
25 Your Honor. 09:18AM

1 THE COURT: Yes, Mr. McConwell. 09:18AM

2 MR. MCCONWELL: I have a motion in limine to 09:18AM
3 exclude evidence about failure of the pitch links and the 09:18AM
4 like, for Mr. Guzzetti, that needs to be dealt with before he 09:19AM
5 testifies. 09:19AM

6 THE COURT: Did you file that already? 09:19AM

7 MR. MCCONWELL: I did it last week. 09:19AM

8 THE COURT: Oh, okay. All right. Let me -- 09:19AM
9 yeah, that's right. Okay. I've got that. I've got that. 09:19AM
10 Yeah. Yeah. I think every -- every time I look at my inbox 09:19AM
11 it says another motion filed. So we're catching up with all 09:19AM
12 of 'em. So yeah, let me look at that. So you want -- yeah, 09:19AM
13 I'll talk about that before Mr. Guzzetti starts his 09:19AM
14 examination. 09:19AM

15 Any other motions? So we got the -- you're going 09:19AM
16 to take care of the summary demonstrative one? 09:19AM

17 MS. M. MILLER: Yes. 09:19AM

18 THE COURT: This is on the rotor link thing? 09:19AM

19 MR. MCCONWELL: The -- the pitch link. 09:19AM

20 THE COURT: I'm sorry? 09:19AM

21 MR. MCCONWELL: Pitch change links. 09:19AM

22 THE COURT: Pitch rotor links? 09:19AM

23 MR. MCCONWELL: The tail rotor pitch links. 09:19AM

24 THE COURT: Tail rotor pitch links. That's 09:19AM
25 right. Okay. That one. And then anything else? 09:19AM

1 MS. M. MILLER: No. 09:19AM

2 MR. MCCONWELL: No, I think that was all we 09:19AM
3 included. As it relates to death and serious bodily injury. 09:19AM

4 THE COURT: Right. Right. Okay. And I know 09:19AM
5 there is another one, there is another motion that I've 09:19AM
6 already worked on about whether or not the mention of nine 09:19AM
7 deaths as opposed to less than nine deaths, that's the one -- 09:20AM
8 that's the one we -- okay -- okay, I worked on that. So let 09:20AM
9 me just finish that up. 09:20AM

10 MS. M. MILLER: And it's now ten deaths. 09:20AM

11 THE COURT: Okay. Well, we'll -- we'll talk 09:20AM
12 about that, because I -- anyway, I will issue something on 09:20AM
13 that, I've already written something on it. 09:20AM

14 MS. M. MILLER: Yes, Your Honor. 09:20AM

15 THE COURT: Okay. Anything further, Counsels? 09:20AM

16 MS. M. MILLER: No, thank you. 09:20AM

17 THE COURT: Nothing? Okay. I'll see you all, 09:20AM
18 let's see, now let's get the time right so we're all in sync. 09:20AM

19 MS. MCCONWELL: May we have 30 minutes from when 09:20AM
20 we get the document? 09:20AM

21 THE COURT: Okay. I'll give you -- yeah. You 09:20AM
22 should get the document like -- it will be instant like this. 09:20AM
23 As I talk, boom. 09:20AM

24 MS. MCCONWELL: Okay. 09:20AM

25 THE COURT: Emily, did we do it yet? 09:20AM

1	(Discussion with law clerk.)	09:20AM
2	THE COURT: So tell the clerk, chop, chop. Let's	09:20AM
3	go. It's fast. So I'll give you guys -- it's 9:00 -- let's	09:20AM
4	be in sync. It's 9:22 on my watch. So I'll give you until	09:20AM
5	ten. I'm actually going to give you 40 minutes.	09:20AM
6	MS. M. MILLER: Okay. Thank you.	09:21AM
7	THE COURT: So that gives you time to discuss	09:21AM
8	your other issues. I'll see you at ten, thank you.	09:21AM
9	(Recess taken at 9:21 a.m.)	09:21AM
10	(Back on the record at 10:04 a.m.)	10:04AM
11	THE COURT: Ready to proceed, Counsels? Did you	10:05AM
12	have enough time to review the Court's decision?	10:05AM
13	MS. M. MILLER: Yes, Your Honor.	10:05AM
14	THE COURT: Okay. U.S. Attorneys. Mr. Martin	10:05AM
15	and Ms. McConwell? Mr. Martin?	10:05AM
16	MR. MARTIN: Yes, Your Honor.	10:05AM
17	THE COURT: Okay. Ms. McConwell?	10:05AM
18	MS. MCCONWELL: Yes, Your Honor.	10:05AM
19	THE COURT: And Mr. McConwell?	10:05AM
20	MR. MCCONWELL: Yes.	10:05AM
21	THE COURT: Mr. Han? Excuse me?	10:05AM
22	MR. HAN: Yes.	10:05AM
23	THE COURT: See, I can't see you there with that	10:05AM
24	podium. All right. And then, hold on one second. And the	10:05AM
25	court is in receipt of and I'm looking at it right now, the	10:05AM

1 motion, defendant Jon Walker's motion filed -- just looking,
2 still looking at that. Objection to the government's proposed
3 use of new summary charts designated, demonstrative aids. Let
4 me ask, did you guys figure that out?

5 MR. MARTIN: Your Honor, it's my understanding
6 that there will be only be two exhibits used with -- and those
7 were the summary charts that were previously provided to us?

8 MS. M. MILLER: Yeah, so the three charts I was
9 going to use, I've withdrawn. So we don't need any argument
10 on them.

11 THE COURT: Thank you.

12 MS. M. MILLER: You're welcome.

13 MR. MARTIN: For the record, can we just have the
14 numbers of the one you intend to use? Summary charts.

15 MS. M. MILLER: Three demonstrative aids? No,
16 the three demonstrative aids in that e-mail that you showed me
17 that Mack showed you.

18 MR. MARTIN: No, no, no, what you intend to use.

19 MS. M. MILLER: Oh, the ones we're going to use?
20 Hold on.

21 THE COURT: Yeah, right, want to be on the same

22 --

23 MS. M. MILLER: Yes, yes.

24 THE COURT: Track.

25 MS. M. MILLER: Okay. So the ones we're going to

1 use are Government's Summary Chart 17, G-DA17, and... that's a 10:07AM
2 demo aid, though. Then for summary chart, we're using 1242, 10:07AM
3 1247, 1236. 10:07AM

4 THE COURT: Did you get that? You want -- why 10:07AM
5 don't you repeat that one more time, Ms. -- 10:07AM

6 MS. M. MILLER: 1242, 1247, 1236. I'm just going 10:07AM
7 through to make sure there isn't anything else. 10:07AM

8 THE COURT: What's the last one? 1230 -- 10:07AM

9 MS. M. MILLER: 1236, Your Honor. That's not a 10:07AM
10 summary chart, that's an NTSB report, I'm sorry, of the 10:08AM
11 accident of 1243D. We have the summary chart of the Spares, 10:08AM
12 Inc. parts that were purchased, which is 3038. And we have 10:08AM
13 another demo aid that I sent to defense Counsel on June 4th, 10:08AM
14 which is the NTSB -- how it investigates accidents, and, Mack, 10:08AM
15 you didn't raise any objections to that. 10:08AM

16 MR. MARTIN: I'm not objecting to that. I'm 10:08AM
17 looking for 17, I don't see that I have 17. 10:08AM

18 MS. M. MILLER: Demonstrative aid 17? I sent 10:08AM
19 that to you on June 4th as well. And all that is, is "How 10:08AM
20 Helicopters Work," that's the title of the demonstrative aid. 10:08AM
21 It's not a summary chart. 10:08AM

22 MS. MCCONWELL: I don't -- I don't have it 10:08AM
23 either. 10:08AM

24 MS. M. MILLER: I sent it to you as well, and I 10:08AM
25 saved the e-mail. So if I need to send that -- 10:08AM

1 THE COURT: Why don't you just send it again. 10:08AM

2 MS. M. MILLER: I'll send it again. 10:08AM

3 THE COURT: Yeah, it gets lost. 10:08AM

4 MS. M. MILLER: Yup. 10:08AM

5 THE COURT: They'll send it again. I think they
6 should just send it again. Sometimes it's just too many
7 e-mails. 10:08AM

8 MS. M. MILLER: Yup. And then -- and that's it. 10:08AM
9 So the two summary chart that Mr. Guzzetti prepared, 1242,
10 1247, the summary chart regarding the purchase of the parts, 10:09AM
11 3038... and I'm going through his direct just to make sure 10:09AM
12 there is nothing else. 10:09AM

13 I believe that's it. That's it. 10:09AM

14 THE COURT: Okay. Mr. Martin, did you -- are you 10:09AM
15 able to -- did you retrieve the e-mail? I don't know if she 10:09AM
16 sent it already. 10:09AM

17 MS. M. MILLER: I'm going to resend. I saved all 10:09AM
18 of those e-mails, just in case there was an issue. And let me 10:09AM
19 go down to 64. 10:10AM

20 (Pause.) 10:10AM

21 MR. MARTIN: I'm looking at 6/4, and I have them 10:10AM
22 all as well. 10:10AM

23 THE COURT: You got it? 10:10AM

24 MR. MARTIN: No, Your Honor, I'd just like to see 10:10AM
25 the demonstrative aid they intend to use. I -- 10:10AM

1 THE COURT: Okay. So you've got it. So. Anyway 10:10AM

2 -- 10:10AM

3 MR. MARTIN: I don't have it, no. 10:10AM

4 THE COURT: It should be -- 10:10AM

5 MS. M. MILLER: I'm going to send it -- I'm going 10:10AM
6 to send it to you again. Hold on. 10:10AM

7 THE COURT: Okay. Assuming you get it, so there 10:10AM
8 is no issues then, and you're prepared to withdraw ECF 695 10:10AM
9 because they are either A -- well, they're not using certain 10:10AM
10 ones and, B, the ones that they are using, have already been 10:10AM
11 admitted. Is that -- is that a fair statement, Mr. Martin? 10:10AM

12 MR. MARTIN: Kind of. 10:10AM

13 THE COURT: Okay. Well, then you state on the 10:11AM
14 record what it is. 10:11AM

15 MR. MARTIN: Your Honor -- 10:11AM

16 THE COURT: I was trying -- 10:11AM

17 MR. MARTIN: My concern is I want to see 17 10:11AM
18 because I don't know what it is. 10:11AM

19 MS. M. MILLER: Yeah, I'm sending it -- I'm 10:11AM
20 sending it again. Hold on. 10:11AM

21 THE COURT: Okay. Why don't we wait a minute 10:11AM
22 here. Maybe it's lengthy. So it takes a while. 10:11AM

23 MS. M. MILLER: Yeah. So that is gone. And then 10:11AM
24 I'm also going to send you again the NTSB one. Did you get 10:11AM
25 it, Mack? 10:11AM

1 MR. MARTIN: I'm sure I will. 10:11AM

2 (Pause.) 10:11AM

3 MS. MCCONWELL: And I would ask that it also be
4 sent to me. 10:11AM

5 MS. M. MILLER: I did -- I did -- I did. And to
6 Ed and everyone. 10:11AM

7 MR. MARTIN: Your Honor, what I'd like to do is
8 -- I got it. 10:12AM

9 THE COURT: Oh, okay. Good, you received it. 10:12AM

10 MR. MARTIN: I'm assuming it will be a little bit
11 before you get to that, or are you going to go right into
12 that? 10:12AM

13 MS. M. MILLER: The "How Helicopters Work" one is
14 pretty early one. It's just a recap of Mr. Guzzetti's
15 expertise, which is very brief, and then we're going right
16 into "How Helicopters Work." 10:12AM

17 THE COURT: Okay. Therefore? Yes, Mr. Martin? 10:12AM

18 MR. MARTIN: If I might have a minute to review
19 it, Your Honor? 10:12AM

20 THE COURT: Sure. 10:12AM

21 (Pause.) 10:12AM

22 (Discussion with clerk.) 10:14AM

23 (Pause.) 10:14AM

24 THE COURT: Yes, go ahead -- go ahead. He's just
25 going to fix my computer. 10:15AM

1 MR. MARTIN: We reviewed the demonstrative aids
2 the government intends to use, and we don't have an objection
3 to it.

4 THE COURT: No objections. Okay.

5 MR. MARTIN: To 17.

6 THE COURT: 17. All right. Did you want to
7 review the other ones?

8 MS. M. MILLER: That will come a little later.

9 (Pause.)

10 (Defense Counsel conferred.)

11 THE COURT: Did you -- okay. So I guess my
12 question is, 17 is okay --

13 MR. MARTIN: The others I have seen, Your Honor.

14 THE COURT: All right. So then my question is,
15 on your ECF, the one that -- ECF 6095, will you withdraw that
16 from the record then?

17 MR. MARTIN: It's my... it's my understanding,
18 Your Honor, that the government doesn't intend to use any of
19 those exhibits with Mr. Guzzetti, and if that's correct, then
20 I withdraw it.

21 MS. M. MILLER: That's correct.

22 THE COURT: That is correct. Okay. Withdrawn
23 for the record. And -- are you guys both -- anything else,
24 Ms. McConwell, on the -- on what was just transpiring?

25 MS. MCCONWELL: Yeah, for those demonstrative

1 aids, that would -- that would be true. And --

10:17AM

2 THE COURT: Okay.

10:17AM

3 MS. MCCONWELL: We -- we still continue to have
4 an objection to the remark section of 1242 and 1247 because
5 that's just -- that -- that's just -- that is -- those are
6 just opinions and things that Mr. Guzzetti has written into
7 the remarks section of both of those 1242 and 1247. And so --
8 and we notified them in January that we had that objection,
9 but they don't agree.

10:17AM

10:17AM

10:17AM

10:17AM

10:17AM

10:17AM

10:17AM

10 THE COURT: All right. So when he testifies --
11 when he gets to that, why don't you renew that objection.

10:17AM

10:18AM

12 MS. MCCONWELL: Yes, I will.

10:18AM

13 THE COURT: If you -- if he does testify to that.

10:18AM

14 MS. MCCONWELL: And then we will also be having
15 objections to 3038, but we'll wait.

10:18AM

10:18AM

16 THE COURT: All right. So yeah, to the extent
17 that -- yeah, let's just see what he says. All right. And
18 then we already took care of the other issue. The 34-page
19 decision I issued. So now there is a defense motion in limine
20 concerning the testimony of Jeff Guzzetti, and he's the one
21 that's going to be testifying in a few minutes; is that correct
22 Ms. --

10:18AM

10:18AM

10:18AM

10:18AM

10:18AM

10:18AM

10:18AM

23 MS. M. MILLER: He is, Your Honor, he is our --
24 our next and probably last witness.

10:18AM

10:18AM

25 THE COURT: Oh, he will be your last witness?

10:18AM

1 MS. M. MILLER: I believe so, yes. 10:18AM

2 THE COURT: Okay. All right. So Defendants had 10:18AM
3 filed a joint motion in limine concerning the testimony of 10:18AM
4 Mr. Guzzetti, ECF 1686. The motion seeks an order barring the 10:18AM
5 prosecution from arguing and/or offering testimony that any 10:18AM
6 parts Hansen obtained from Spares, Inc. caused a helicopter 10:18AM
7 crash causing the death or serious bodily injury -- or causing 10:18AM
8 death or serious bodily injury. 10:19AM

9 Motion at 2 ECF 1686. The Defendants are 10:19AM
10 claiming that the United States failed to provide any details 10:19AM
11 about the purported nine deaths or serious bodily injuries 10:19AM
12 that Defendants are alleged to have caused by the 10:19AM
13 misrepresentation of, failure of, or defects in the tail rotor 10:19AM
14 pitch change link, TRPCL, or more specifically, a pitch link 10:19AM
15 blank, installed on the helicopters referenced in 10:19AM
16 paragraph 126 of the Second Superseding Indictment. 10:19AM

17 Motion at 6 ECF No. 1686, they also seem to 10:19AM
18 object on relevancy grounds and of -- relevancy grounds of 10:19AM
19 unde -- and grounds of undue prejudice. 10:19AM

20 Motion at 23 ECF 1686. Mr. Jeff Guzzetti's 10:19AM
21 expert report states that, "He will testify that 23 accidents 10:19AM
22 occurred in helicopters while being operated by Hansen for one 10:20AM
23 of its numerous subsidiaries." That, quote, in light of the 10:20AM
24 23 Hansen accidents were fatal, killing nine people and 10:20AM
25 seriously injuring four, and that three of the Hansen 10:20AM

1 accidents fit the pattern of a failed tail rotor pitch control
2 link.

3 United States of America notice of intent to use
4 expert testimony of Guzzetti at 1112 ECF 480. Count 9 charges
5 both Defendants, Walker and Hansen Helicopters, with aircraft
6 parts fraud, that proximately caused serious bodily injury.
7 Second Superseding Indictment, paragraphs 93 through 96 ECF
8 862, Count 10 charges both Defendants with aircraft parts
9 fraud that proximately caused Second Superseding Indictment --
10 caused death -- I'm sorry, strike that, let me start that
11 again.

12 Count 10 charges both Defendants with aircraft
13 parts fraud that proximately caused death, Second Superseding
14 Indictment paragraphs 99 through 100 at ECF 862.

15 Count 13 charges only Defendant, Hansen
16 Helicopters, with aircraft parts fraud that proximately caused
17 death, Second Superseding Indictment, paragraphs 109
18 through 110 at ECF 862.

19 The Court notes in a footnote that Counts 8, 11,
20 and 12 are also for aircraft parts fraud, but do not allege
21 violations of 18 United States Code 38(b)(2) or (b)(3), which
22 contained the sentencing enhancements for proximately causing
23 serious injury and death, respectively. The government,
24 therefore, needs only prove one serious bodily injury and two
25 deaths. The Second Superseding Indictment provides notice of

1 three crashes, one of which caused serious bodily injury and
2 two of which caused deaths.

3 The Court cites at Second Superseding Indictment
4 paragraphs 51, 59 through 61, and 80 at ECF 862. These
5 accidents are not described in Counts 9, 10, and 13, but an
6 indictment should be read as a whole, quote, end quote. The
7 Court cites *United States versus Blinder*, 10 F.3d 1468, 1473,
8 9th Circuit, 1993. Therefore, testimony about those accidents
9 goes directly to a fact of consequence in determining the
10 action and should be admitted, Federal Rule of Evidence
11 401(b). Therefore, the motion should be denied.

12 Testimony about other accidents, however, should
13 be inadmissible as unfairly prejudice, the Court knows that
14 there's-- anyway, the Court notes that -- well, this part I'm
15 not sure how I'm going rule upon, but at this point -- I mean,
16 I'm not sure if there will be a further ruling on that unless
17 there was notice potentially through discovery that the
18 government was going to prove 9, 10, and 13 based on different
19 accidents than the ones alleged in the second superseding
20 indictments and what those -- what actions those were. And
21 the Court cites the Federal Rule of Evidence 403.

22 So that's the Court's ruling on --

23 MR. MCCONWELL: May I ask for clarification? Our
24 motion was made on the basis that there was no evidence
25 proffered by the government at all that would come close to

1 establishing a failure of the pitch link -- the pitch link 10:23AM
2 causing a death. And it's a Daubert-type motion that the 10:23AM
3 witnesses provided no document and no specific statement. It 10:23AM
4 seems like, fits the pattern, is not adequate evidence by an 10:23AM
5 expert. There should be some scientific basis for it and 10:23AM
6 reasons specifically for it, but they -- he's cited no failure 10:23AM
7 of a pitch link at all, no metallurgical examinations, 10:24AM
8 anything. In fact, he's not even said a pitch link actually 10:24AM
9 failed. And -- and we don't know -- they've not told us which 10:24AM
10 aircraft they're really referring to on these alleged deaths, 10:24AM
11 but it fits the pattern is not even close to being something 10:24AM
12 that should be allowed to be admissible under the Daubert 10:24AM
13 standard. That -- that was the basis for our motion. 10:24AM

14 THE COURT: Okay. All right. 10:24AM

15 MS. M. MILLER: And, Your Honor, this Court 10:24AM
16 previously already ruled when Mr. McConwell filed a motion for 10:24AM
17 a bill of particulars for a second time as to Counts 8 through 10:24AM
18 13. This Court entered an order at ECF 1179 specifically 10:24AM
19 saying that the motion for an additional bill of particulars 10:24AM
20 was denied because there was substantial evidence in discovery 10:24AM
21 provided to the Defendant to provide further insight into the 10:24AM
22 allegations against them, and specifically, I cite to page 3, 10:24AM
23 lines 9 to 10 of your, ECF 1179. 10:25AM

24 Additionally, you talked about reviewing the 10:25AM
25 Second Superseding Indictment, and the additional discovery 10:25AM

1 that was provided to the defense. We provided the summary
2 charts to the defense which outline all of the accidents that
3 the aircraft were involved in before Hansen purchased them,
4 and the status of those aircraft at the time, whether they
5 were destroyed or substantially damaged. And then that Hansen
6 actually purchased those destroyed or substantially-damaged
7 aircraft. And then, after Hansen purchased them and started
8 leasing them out with the tuna boat contracts, they were in
9 another 37 accidents.

10 And we provided that summary chart to the defense
11 back in August of 2020. So in August of 2020, following the
12 May 2020 17-page disclosure of opinions of Mr. Guzzetti, the
13 government provided in explicit detail not only the summary
14 charts identifying the registration number of the helicopter,
15 the date of the accident, the NTSB report underlying the
16 information, whether there were fatalities or serious bodily
17 injuries, and the cause of the accident. Those were all
18 provided to the defense more than two years ago. And that's
19 why, Your Honor, when Mr. Kapp, through Mr. McConwell, had
20 filed a motion for a second bill of particulars, we objected.
21 And this Court ruled there is enough evidence, you have enough
22 evidence, you have all of the underlying documents, and as you
23 have said repeatedly, Your Honor, if any of the summary
24 evidence in those exhibits is in any way inaccurate, bring it
25 to my attention. They've had the NTSB reports, and they've

1 had Mr. Guzzetti's charts for two years and not once did they 10:26AM
2 say, Your Honor, look at this report, and look at this summary 10:27AM
3 and this chart, do you see the inconsistency. They have never 10:27AM
4 done that, Your Honor. And so here we are, Mr. Guzzetti is 10:27AM
5 about to get on the witness stand, and they're making the 10:27AM
6 objection again. 10:27AM

7 This is relevant because, number one, in 10:27AM
8 paragraph 50 of our Second Superseding Indictment, we actually 10:27AM
9 identified the 30 aircraft that they purchased that had been 10:27AM
10 previously destroyed or substantially damaged. And in his 10:27AM
11 summary chart, regarding the accidents that occurred after 10:27AM
12 they bought it, we provided them with all of that information. 10:27AM
13 That information isn't only relevant to Counts 8 through 13 of 10:27AM
14 the Second Superseding Indictment, that information is also 10:27AM
15 relevant to Count 1, which we have also alleged in 10:27AM
16 Mr. Guzzetti's expert summary. Count 1 alleges that the 10:27AM
17 Defendant was involved in a conspiracy to commit a fraud 10:27AM
18 against the FAA and NTSB. And this Court has agreed that the 10:27AM
19 Ninth Circuit jury instructions on fraud against the 10:28AM
20 government includes an agreement or a conspiracy to impede, 10:28AM
21 obstruct, or otherwise make it difficult for the government to 10:28AM
22 fulfill its mission. 10:28AM

23 We've heard testimony from FAA representatives 10:28AM
24 that the mission of the FAA is to ensure safe flight. We also 10:28AM
25 have heard information from Mr. Guzzetti before doing the jury 10:28AM

1 view of what the mission of the NTSB is, which is to 10:28AM
2 investigate any accidents or incidents involving 10:28AM
3 U.S.-registered aircraft or aircraft that are manufactured in 10:28AM
4 the U.S. 10:28AM

5 The Defendants have violated 18 U.S.C. 371 by 10:28AM
6 their fraud because they have impeded the ability of the FAA 10:28AM
7 to ensure safe travel in relation to those aircraft that 10:28AM
8 they've used in their fraud. And the jury will also see, and 10:28AM
9 the Defendants have seen for the last two years, that there 10:28AM
10 are at least 20 accidents that occurred that the Defendants 10:29AM
11 failed to report to the NTSB, which is a direct impediment of 10:29AM
12 the ability of the NTSB to fulfill its mission, which is 10:29AM
13 evidence for Count 1. 10:29AM

14 So Mr. Guzzetti's testimony is relevant to 10:29AM
15 Count 1 as well as Counts 8 through 13. His summary charts 10:29AM
16 underlying his opinions have been in the possession of the 10:29AM
17 Defendants as well as all the underlying documents for two 10:29AM
18 years. There can be no alleged prejudice. Certainly not 10:29AM
19 unfair prejudice under 403 as to this evidence coming in for 10:29AM
20 both Count 1 and Counts 8 through 13. 10:29AM

21 That's the government's position, Your Honor. 10:29AM

22 MR. MCCONWELL: May I respond, Your Honor? 10:29AM

23 THE COURT: Okay. All right. But you guys 10:29AM
24 understanding my ruling? 10:29AM

25 MS. MCCONWELL: Yup. 10:29AM

1 THE COURT: Do you get it? 10:29AM

2 MR. MCCONWELL: I understand your ruling. I just 10:29AM
3 want clarification. Our motion is directed at the parts fraud 10:29AM
4 that there were violations of Chapter 38. And there is 10:29AM
5 certain enhanced penalties involved and if there is a fraud, a 10:30AM
6 failure of one of these parts, that's why it's isolated. 10:30AM

7 (Pause.) 10:30AM

8 THE COURT: Right. Okay. But... but you -- 10:30AM

9 MR. MARTIN: Your Honor. 10:30AM

10 MR. MCCONWELL: Maybe I misunderstood your 10:30AM
11 ruling. 10:30AM

12 THE COURT: Did you misunderstand my ruling? 10:30AM

13 MR. MARTIN: Could I ask for you to repeat the 10:30AM
14 relevant portions of the ruling? 10:30AM

15 THE COURT: Why don't I give you copy of this so 10:30AM
16 you guys can read it or not, you know. Let me -- let me just 10:30AM
17 -- let me -- let's download copies and give it to them. Can 10:30AM
18 we Xerox it or whatever we do? Oh. Okay. You know what, I 10:30AM
19 actually didn't put it in order. Actually this is my own 10:30AM
20 notes. I haven't issued an order. Yeah, let me just... I'll 10:30AM
21 just convert it to an order. 10:30AM

22 MS. M. MILLER: And I think one of the things 10:30AM
23 though, Your Honor, before you convert it -- 10:30AM

24 THE COURT: I thought -- yeah, I'm sorry, I 10:30AM
25 didn't convert it to an order. It was just my own notes. 10:30AM

1 MS. M. MILLER: Before you -- I'm sorry to
2 interrupt. Before you convert it to an order --

3 THE COURT: I'm going to convert it to order
4 right now.

5 MS. M. MILLER: It was strictly -- it was strict
6 -- it seems to be strictly geared towards Counts 8 through 13,
7 which was Mr. McConwell's motion. What I want to ensure is
8 that we don't have any limitations for Count 1, which is
9 conspiracy to defraud the FAA and the NTSB, which as you know
10 in the jury instructions, requires the government to show an
11 impediment, obstruction, or otherwise deceitful, or other
12 actions which made it difficult or impossible for the FAA and
13 NTSB to fulfill its mission. The evidence of the accidents,
14 and the incidents, and the death go directly to Count 1 and,
15 therefore, under Count 1, those should not be excluded under
16 403 of the Federal Rules of Evidence. The government will not
17 argue under the aircraft parts fraud that other than the
18 accidents we previously identified as causing serious bodily
19 injury or death, did in fact cause serious bodily injury or
20 death under those counts, but for Count 1, the totality
21 regarding the number of accidents, and incidents, and
22 injuries, and death -- first of all, the jury has already
23 heard --

24 THE COURT: Okay. I got it. You want -- you
25 wanted -- you're saying, look, because the limit -- strike

1 that. Because the motion in limine was limited to the three
2 counts, I'm only -- I ruled on 9, 11 and 13, I think.

3 MS. M. MILLER: Yes, Your Honor.

4 THE COURT: All right. 9, 10 and 13 -- 9, 10 and
5 13.

6 MS. M. MILLER: Yes, Your Honor.

7 THE COURT: You're saying, Judge, the other
8 remaining fatalities and/or injuries should be allowed under
9 Count 1.

10 MS. M. MILLER: Correct. Thank you.

11 MR. MARTIN: May I respond, Your Honor?

12 THE COURT: Yeah.

13 MR. MARTIN: 403, which is undue prejudice among
14 other things, would apply to the whole indictment, and I would
15 object to the government trying to say, well, it doesn't apply
16 to this, but it applies to that. And to try to expand 403
17 undue prejudice against us in that regard. I think if's
18 unduly prejudicial, it's unduly prejudicial to the whole
19 indictment, and so I would submit to the Court that, you know,
20 sustaining it in part on these counts but not to that count is
21 actually no order at all.

22 MS. M. MILLER: And, Your Honor, I would
23 disagree. And the reason why I would disagree is the very
24 language contained in Rule 403. 403 says that there is a
25 balancing test the Court must exercise when deciding whether

1 evidence comes in to prove a particular fact. In this case,
2 what the Court is ordering is that evidence of other
3 fatalities unrelated to the aircraft parts fraud would be
4 unduly prejudice under 403, for those counts. And the
5 government is not going to object to that order at all.

6 However, when you look at Count 1, and you look
7 at the requirements the government has to prove for Count 1,
8 it is a different analysis. For Count 1, impeding the FAA's
9 ability to fulfill its function, impeding the NTSB's ability
10 to fulfill its function, if we are not permitted to allow into
11 evidence all of the accidents, and incidents, and death that
12 were the result of the Defendants' conspiracy to defraud the
13 U.S., that is extremely probative for Count 1. And the
14 balancing test for Count 1 is not overcome by the danger of
15 unfair prejudice.

16 And, again, Your Honor, Counsel has not moved to
17 exclude any of this evidence under Count 1. Their motion
18 exclusively addressed Counts 8 through 13. So if they are now
19 expanding their motion to Count 1, first of all, they never
20 filed this motion and my question would be, why not? The
21 government produced this information to them more than two
22 years ago. It took them two years to figure out that that may
23 be unfairly prejudicial under Count 1? I don't think so. I
24 also think, Your Honor, that the balancing test does not weigh
25 in favor of unfair prejudice when we look at the jury

1 instructions for Count 1.

2 THE COURT: Okay. Well, let me just say -- okay.
3 All right. All right. I understand the argument. I mean,
4 we've already -- we've already gone through the issue of the
5 fact that the United States Attorney's did not put in the
6 indictment all of the -- well, any of the... companies, the --
7 the companies that they were using to shelter -- the shelter
8 companies to allegedly commit the fraud, we note that they
9 were not noted in the indictment. Now we're talking about
10 death and serious bodily injury which enhances the sentencing
11 of any of the Defendants if they're found guilty.

12 MS. M. MILLER: Only Counts 8 through 13 is an
13 enhancement.

14 THE COURT: Right, I got --

15 MS. M. MILLER: Not for Count 1.

16 THE COURT: No, hold on. So let's just listen.
17 Now Counts 9 -- so the counts, let me verify this on my order
18 here. Counts 9, 10, and 13 charges the Defendants with either
19 causing -- proximately causing death or serious bodily injury.
20 That's actually noted within the grand jury indictment. Not
21 necessarily so with regard to any other death or serious
22 bodily injury. And so I think that that -- the Court has to
23 look at the issue of under the balancing test and so
24 specifically, the question is, will relevant evidence be
25 excluded if its probative value is substantially outweighed by

1 any danger of unfair prejudice, confusion of issues,
2 misleading the jury, considerations of delay, waste of time,
3 or needless presentation of cumulative evidence. I understand
4 your argument. You don't have to repeat it --

5 MS. M. MILLER: Oh, I'm not going repeat it.

6 THE COURT: No, no, no, just hold on. I just
7 need you just -- can I have you both sit down?

8 MS. M. MILLER: Yes, of course.

9 THE COURT: Makes it easier. You both keep
10 jumping up. All right. So let me just say, I'm concerned
11 about that because it's clear that the indictment does give
12 the Defendants absolute notice that -- clear notice that at
13 least you're focusing in on two potential deaths and one
14 serious bodily injury. Anything beyond that is not necessary
15 -- it's not in the indictment, it's not in the four corners of
16 the indictment. If it is, show me where it is.

17 MS. M. MILLER: It is, that's why I got up.

18 THE COURT: Okay. Hold on. Just hold on. So
19 well, it's not -- and I guess when it was raised in the motion
20 in limine, I get that, but I want to be sure that the
21 Defendants have notice within the indictment. Just show me --
22 just tell me the counts, you don't have to read it, just tell
23 me what counts they were.

24 MS. M. MILLER: One.

25 THE COURT: Okay. I got that. Any other count

1 MS. M. MILLER: No, but specifically, in Count 1
2 if you look at paragraph 50.

3 THE COURT: Okay. So let me look at that.
4 That's all I need to know. Just cite it and I'll review it.

5 MS. M. MILLER: Yes, Your Honor.

6 THE COURT: All right.

7 MS. M. MILLER: And then I have --

8 THE COURT: All right. So paragraph -- hold on.
9 So the Court looks at paragraph 50, which is under the -- is
10 under the overt acts title. And it -- and it has a chart
11 about how -- and it alleges Walker, Reed, Crowe, Kapp, Hansen
12 and Rogers purchasing aircraft previously destroyed or
13 substantially damaged with the intent to conceal the condition
14 of said aircraft from the government and others and it lists
15 -- it lists 26 instances from year 1992 to 2016 reflecting
16 what I -- what I just stated. Okay. What else?

17 MS. M. MILLER: Look at paragraph 51, please.

18 THE COURT: Hang on. Okay. Let me just -- let
19 me get a different color. Any other -- any other paragraph?

20 MS. M. MILLER: Yes, Your Honor, 55.

21 THE COURT: Can you ask Steve to see my computer
22 went out again. As soon as he walked out it goes out. Okay.
23 What, 55?

24 MS. M. MILLER: 55, Your Honor.

25 THE COURT: Let me look at that. Okay. What

1 else?

10:40AM

2 MS. M. MILLER: 59.

10:40AM

3 THE COURT: Okay. What else?

10:40AM

4 MS. M. MILLER: And just for your reference, Your
5 Honor, 59, 60 and 61 are referring to the same fatal accident,
6 as is 62.

10:40AM

10:40AM

10:40AM

7 THE COURT: That's referring to 59's accident?

10:40AM

8 MS. M. MILLER: That's all -- that's all related
9 to --

10:40AM

10:40AM

10 THE COURT: 59 --

10:40AM

11 MS. M. MILLER: 608 9068 F.

10:40AM

12 THE COURT: 59, 60, 61, and 62?

10:40AM

13 MS. M. MILLER: Yes, Your Honor. It's kind of
14 like all of the allegations through paragraph 63 are related
15 to that particular incident -- 62 -- are related to that
16 particular incident.

10:40AM

10:40AM

10:40AM

10:40AM

17 THE COURT: Okay. Any other paragraph?

10:40AM

18 MS. M. MILLER: Um, let me see. No, Your Honor,
19 that's it.

10:40AM

10:40AM

20 THE COURT: All right. So the one thing I note,
21 and I just read this pretty quickly, is that the only
22 paragraph that actually talks about a fatal crash is 59.
23 That's the only one -- of all the ones that you just cited.

10:40AM

10:40AM

10:41AM

10:41AM

24 (Discussion with IT.)

10:41AM

25 MS. M. MILLER: 51 does too, Your Honor.

10:41AM

1 THE COURT: Oh, I'm sorry what? 10:41AM

2 MS. M. MILLER: 51. 10:41AM

3 THE COURT: Yeah, that's related though to 59. 10:41AM

4 Yeah, you said that that's all related to -- it's related to 10:41AM
5 the same -- 10:41AM

6 MS. M. MILLER: No. 10:41AM

7 THE COURT: -- aircraft. N9068F. 10:41AM

8 MS. M. MILLER: 51? 10:41AM

9 THE COURT: Oh, I'm sorry. 10:41AM

10 MS. M. MILLER: No, 51 is not. 10:41AM

11 THE COURT: You're right. I missed that one. 10:41AM

12 That's right. So 51, so -- okay. So now I see 51 and 59 are 10:41AM
13 two. Any other ones? The other ones do not, as I see it. 10:41AM

14 MS. M. MILLER: Yes, Your Honor. 10:41AM

15 THE COURT: They do not reflect serious bodily 10:41AM
16 injury or fatal crash; is that correct? 10:42AM

17 MS. M. MILLER: That is -- yes. 10:42AM

18 THE COURT: All right. 10:42AM

19 MS. M. MILLER: And then, Your Honor, in your -- 10:42AM

20 in your order, when you denied the Defendants' motion for a 10:42AM

21 bill of particulars and this was also for Count 1, they had 10:42AM

22 asked for a bill of particulars for Count 1. One of the 10:42AM

23 findings that you had was that there had been so much 10:42AM

24 discovery provided to the Defendant, including the charts that 10:42AM

25 Mr. Guzzetti had prepared, what's important about that, Your 10:42AM

1 Honor, is as of August of 2020, the Defendants had 10:42AM
2 Mr. Guzzetti's charts which identified all of the Hansen 10:42AM
3 accidents that resulted in injury or death. So for two years, 10:42AM
4 they've had the N-number of the aircraft, they've had the date 10:42AM
5 of the accident, they've had how many injuries or deaths were 10:42AM
6 sustained as a result of the accident, and they've had the 10:42AM
7 underlying NTSB report citing that accident. This is all in 10:42AM
8 reference to Count 1, which this Court has denied their motion 10:42AM
9 to dismiss repeatedly, denied repeated motions for bill of 10:43AM
10 particulars on the basis that sufficient evidence was 10:43AM
11 provided. So, Your Honor -- 10:43AM

12 THE COURT: Okay. Can you -- okay. I've got it. 10:43AM
13 I know your argument on that. 10:43AM

14 MS. M. MILLER: Yes. 10:43AM

15 THE COURT: Can you clarify that the list in 10:43AM
16 paragraph 50 is of accidents that occurred before -- 10:43AM

17 MS. M. MILLER: Yes. 10:43AM

18 THE COURT: -- Hansen became the owners. 10:43AM

19 MS. M. MILLER: Yes, and that supports one of 10:43AM
20 Mr. Guzzetti's charts, and the other chart he did was of the 10:43AM
21 accident occurred -- that occurred after Hansen's ownership. 10:43AM

22 THE COURT: No, but, I mean, I'm just saying on 10:43AM
23 paragraph 50 in particular. 10:43AM

24 MS. M. MILLER: Yes, that's before. Yes, 100%. 10:43AM

25 THE COURT: All right. So yes, Counsel? 10:43AM

1 Defense? Defense? On her -- okay. So now we have, okay. 10:43AM
2 The Court has already made a ruling on three of the 10:43AM
3 paragraphs, the prosecutor is now citing to two additional 10:43AM
4 paragraphs that focus on death. And you know what they are. 10:43AM
5 She just stated them. So let's focus on that first. And then 10:43AM
6 let's focus on the other argument that she makes regarding the 10:44AM
7 bill of particulars issue, the fact that you all have 10:44AM
8 discovery and so forth. Let's start with the first question. 10:44AM

9 MR. MARTIN: The first question -- the first 10:44AM
10 question, Your Honor, Rule 403 doesn't divide it into what 10:44AM
11 counts have been charged. Rule 403 says, "The Court may 10:44AM
12 exclude relevant evidence if it's probative value is 10:44AM
13 substantially outweighed by danger of one or more of the 10:44AM
14 following: Unfair prejudice, confusing the issues, misleading 10:44AM
15 the jury, undue delay, wasting time, or needless presenting 10:44AM
16 cumulative evidence." If it is prejudicial or it's a 10:44AM
17 violation of 403 as to one count, that same prejudice applies 10:44AM
18 to all counts of the indictment. 10:44AM

19 As relates to, Your Honor, the Counts 8, 9, and 10:44AM
20 10, let me make just -- make this, I filed a motion to dismiss 10:45AM
21 those. The Court ordered the government to file a bill of 10:45AM
22 particulars as to 8, 9 and 10, the government did file a bill 10:45AM
23 of particulars as to 8, 9 and 10, and basically amended their 10:45AM
24 charges where the Count 8 aircraft fraud by way of election, 10:45AM
25 and that's in ECF 106-1, Count 8 now charges a violation of 10:45AM

1 38(a)(1)(A), which relates to a particular purchase order. 10:45AM
2 Count 9 relates to a different purchase order, is a violation 10:45AM
3 of 38(a)(1)(B), and Count 10 is now an attempt or a conspiracy 10:45AM
4 which is out -- which is outlined that we conspired to falsely 10:45AM
5 identify counterfeit parts versus we conspired to defraud the 10:45AM
6 government by falsely identifying counterfeit critical parts 10:46AM
7 or legitimate parts, including a tail rotor pitch change link. 10:46AM
8 That does not, in their amendment and election, allege that 10:46AM
9 caused serious bodily injury or death, Your Honor, in 10:46AM
10 Count 10. 10:46AM

11 And I submit to the Court that just for the 10:46AM
12 purposes of 403, those should be excluded. I understand that 10:46AM
13 their argument relating to the conspiracy, but if it's 10:46AM
14 prejudicial as to the other counts, it should be prejudicial 10:46AM
15 as to the conspiracy. I understand the Court is going to 10:46AM
16 issue a ruling that outlines which deaths should come out -- 10:46AM

17 THE COURT: Well, I just did -- I've just given 10:46AM
18 you a... I've just given you a, you know, a written -- or not 10:46AM
19 written, a verbal ruling on the specific counts. And then 10:46AM
20 now, the prosecutor says, well, no, no there are other -- 10:46AM
21 there are two other counts she's indicated -- showing there 10:46AM
22 are two other counts within the indictment that talk about 10:46AM
23 fatal -- 10:47AM

24 (Discussion with IT.) 10:47AM

25 THE COURT: I got to keep my IT guy here. 10:47AM

1 MS. M. MILLER: Your Honor, there is 10:47AM
2 also paragraph -- 10:47AM

3 THE COURT: Wait, wait, wait, hold on. 10:47AM

4 MS. M. MILLER: -- 47. Oh, okay. I just wanted 10:47AM
5 to -- 10:47AM

6 THE COURT: Wait, wait, wait. Just hold on. Let 10:47AM
7 me finish. Now they've given me two other -- other counts and 10:47AM
8 they've given the other argument. So you're saying that it's 10:47AM
9 not good enough, the other argument, about discovery, the fact 10:47AM
10 that they've given you summary charts, they've given you other 10:47AM
11 further evidence with regard to justifying or substantiating 10:47AM
12 further deaths or serious bodily injury? 10:47AM

13 MR. MARTIN: Your Honor, I submit to you that the 10:47AM
14 materials that we have been provided by Mr. Guzzetti in terms 10:47AM
15 of his expert opinion, do not specifically identify -- may I 10:47AM
16 have just one second? 10:47AM

17 THE COURT: Mm-hmm. 10:47AM

18 MR. MARTIN: He doesn't identify -- 10:47AM

19 THE COURT: Hold on -- hold on. Let me just 10:47AM
20 verify with my -- 10:47AM

21 (Pause.) 10:47AM

22 THE COURT: All right. Thank you, Steve. 10:48AM

23 MR. MCCONWELL: May I? 10:48AM

24 MR. MARTIN: I'm referring to Mr. Guzzetti's 10:48AM
25 notice of intent for expert testimony which is ECF 480. I 10:48AM

1 don't believe he's identified in his testimony one specific
2 death, Your Honor, in his -- in his expert testimony. And I
3 submit that beyond that, that it is -- it still falls within
4 the 403 analysis and the Court should exclude it beyond what
5 you've already -- what you've already ordered.

6 MR. MCCONWELL: Your Honor, may I clarify one
7 thing?

8 THE COURT: Yes, go ahead.

9 MR. MCCONWELL: My motion was directed on the
10 fact -- first of all, 9068F, there is no allegation or
11 evidence that there was a failed pitch link for that. I'm
12 talking about --

13 THE COURT: No, that can go to credibility. I
14 mean, you guys can --

15 MR. MCCONWELL: Well, I understand but -- but
16 we're -- we -- you gave us an opportunity when I moved for
17 Daubert to say at the time of the trial if something comes up,
18 we'll take care of it then. That was the purpose of my motion
19 effectively. And they've offered no evidence that a pitch
20 link failed, let alone caused the death. So I mean -- I think
21 they should have to have that evidence or say some credible
22 evidence to be able to speculate that that happened. That was
23 my problem. That was my motion.

24 THE COURT: Yeah, but there was -- but you recall
25 there was some evidence regarding that -- that particular --

1 or that particular part. There was some evidence. 10:49AM

2 MS. M. MILLER: Yes. 10:49AM

3 MR. MCCONWELL: There is no evidence one of those 10:49AM
4 failed. Let alone caused a death. 10:49AM

5 THE COURT: Okay. But there was evidence that it 10:49AM
6 was deficient, if you will, allegedly deficient in certain 10:49AM
7 expert's eyes and -- is that not true? 10:50AM

8 MR. MCCONWELL: That wasn't the opinion expressed 10:50AM
9 in his report that he disclosed to us. And there is no 10:50AM
10 document -- 10:50AM

11 THE COURT: Who are you talking about, who is he? 10:50AM

12 MR. MCCONWELL: Mr. Guzzetti. 10:50AM

13 THE COURT: Okay. Never mind Mr. Guzzetti yet, 10:50AM
14 but what about the other -- other -- other witnesses who may 10:50AM
15 have testified? 10:50AM

16 MR. MCCONWELL: I don't think there was any 10:50AM
17 credible evidence that one of these failed and caused a death. 10:50AM

18 THE COURT: No, okay. But the connection of 10:50AM
19 causing the death is one thing. The particular testimony that 10:50AM
20 the part, the link, rotor pitch -- I keep getting -- I have to 10:50AM
21 write that down, I'm sorry. 10:50AM

22 MS. M. MILLER: Tail rotor pitch change link. 10:50AM

23 THE COURT: I know, I -- 10:50AM

24 MS. M. MILLER: I know it's -- it's hard. 10:50AM

25 MR. MCCONWELL: The problem is we're going to get 10:50AM

1 into, Your Honor, there is a complicated chain of things that 10:50AM
2 could have cause the failure of a tail rotor -- 10:50AM

3 THE COURT: You know what, I don't think it's a 10:50AM
4 problem. I think that that has come out during the trial. 10:50AM

5 MS. M. MILLER: It has. 10:51AM

6 THE COURT: I think the witnesses have testified 10:51AM
7 that even the particular transport of that part could have 10:51AM
8 been affected by movement, by packaging, by a lot of other 10:51AM
9 things. And so I mean, in terms of -- in terms of 10:51AM
10 credibility, that -- that will be a good -- may be a good 10:51AM
11 argument for the defense. Anyway, that -- but I understand 10:51AM
12 your point. 10:51AM

13 MR. MCCONWELL: But I just think they shouldn't 10:51AM
14 be allowed to speculate. 10:51AM

15 THE COURT: All right. And you know what? Hold 10:51AM
16 on. Hold on. Let me just finish with the defense first. I 10:51AM
17 understand what you're saying, but again, I think it's really 10:51AM
18 going to come down to whether or not the jurors want to 10:51AM
19 believe that little, looks like a -- I don't even know I'm not 10:51AM
20 a tool person, anyway, whatever that is, the tail... rotor 10:51AM
21 pitch link, it's up to them to decide whether that has caused, 10:51AM
22 if there is sufficient evidence and if there is any indicia of 10:52AM
23 reliability, that that in particular caused the death of 10:52AM
24 anyone. Really. 10:52AM

25 So I mean your best bet is look at -- I mean, you 10:52AM

1 know, look at the evidence, listen -- I'm sure you have 10:52AM
2 listened to the evidence and pull it together in a blended 10:52AM
3 closing argument. You can do it. 10:52AM

4 MS. M. MILLER: Yup. 10:52AM

5 THE COURT: I've seen it done. 10:52AM

6 MS. M. MILLER: So, Your Honor, may I just 10:52AM
7 respond -- 10:52AM

8 THE COURT: No, no, no, no, no, no, hold on. Let 10:52AM
9 me just -- let me just finish with this -- objections. 10:52AM

10 MS. M. MILLER: Yes. 10:52AM

11 THE COURT: I think -- I have to think. So I got 10:52AM
12 that. Yes, Ms. McConwell? 10:52AM

13 MS. MCCONWELL: I was just standing up to ask if 10:52AM
14 you have filed your order because I was watching for it. 10:52AM

15 THE COURT: Oh, no, I -- I'm going to. Have I -- 10:52AM
16 we going to issue it out? Okay. Yeah, good. Yeah. Yeah, 10:52AM
17 Emily was just waiting for me to say go, hit it, hit the 10:52AM
18 button. It's going to you right now as we speak. 10:52AM

19 MS. MCCONWELL: Okay. 10:52AM

20 THE COURT: So to be clear, it's only limited at 10:52AM
21 this point to what I just said. 10:52AM

22 MS. M. MILLER: Right. 10:53AM

23 THE COURT: We're only -- we're hearing arguments 10:53AM
24 now whether the additional deaths and/or serious bodily 10:53AM
25 injuries could be added. Yes, Mr. Martin? 10:53AM

1 MR. MARTIN: Your Honor, what I'm -- the point I
2 was trying to make is in his report, he makes reference to
3 well, there were 23 accidents, nine people were killed, but
4 there is no specifics relating to who he's talking about, when
5 the accidents occurred, anything about particularly who they
6 are. And I submit to Your Honor, that, you know, when we got
7 26 terabytes of discovery, in this case, for us --

8 (Ms. M. Miller sighed.)

9 THE COURT: No comments. That's commenting on
10 the evidence. That's commenting on his position.

11 MS. M. MILLER: I'm just taking a deep breath.

12 MR. MARTIN: I can sit over here and sigh every
13 time, Your Honor --

14 THE COURT: Yeah, I know.

15 MR. MARTIN: -- the other side says something,
16 and I restrain myself, and I don't appreciate this --

17 THE COURT: Counsel, not being professional.
18 Let's not -- let's not do it.

19 MS. M. MILLER: Sorry, I'm just taking a deep
20 breath, Your Honor.

21 THE COURT: Then turn off the mic.

22 MS. M. MILLER: Yes. Definitely. Good idea.

23 THE COURT: Good idea. Okay. Yes. Mr. Martin?

24 (Pause.)

25 THE COURT: Okay. So. We are -- you were --

1 MR. MARTIN: My objection is, Your Honor, let me 10:54AM
2 -- so the record is clear. Anything outside what the Court 10:54AM
3 just announced as to all these other accidents or deaths that 10:54AM
4 we haven't, in my opinion, have not been given the appropriate 10:54AM
5 notice and the expert -- in the expert report or the discovery 10:54AM
6 material provided, I object to. 10:54AM

7 THE COURT: What about -- so now the prosecutor 10:54AM
8 has just pointed out to me paragraph 51. What do you say 10:54AM
9 about paragraph 51? 10:54AM

10 MS. M. MILLER: Paragraph 47. 10:54AM

11 THE COURT: Hold on -- hold on, Counsel. Let me 10:54AM
12 finish. 10:54AM

13 MR. MARTIN: I'll do them one at a time. 10:54AM

14 THE COURT: Paragraph 51 and 59. Hold on. She 10:54AM
15 wants to add one. 10:54AM

16 MS. M. MILLER: 47. 10:54AM

17 THE COURT: Is that the only one to add? 10:54AM

18 MS. M. MILLER: That's the only one right now, 10:54AM
19 yes. And then I do have other argument, Your Honor. 10:54AM

20 THE COURT: No, no, no. 10:54AM

21 MS. M. MILLER: 47. 10:54AM

22 THE COURT: I just want -- let me just tell you, 10:54AM
23 Counsel, all I care about is the paragraphs. 10:54AM

24 MS. M. MILLER: 47. 10:54AM

25 THE COURT: Don't say right now. Tell me now 10:54AM

1 forever. Because -- or forever hold your peace. So tell me 10:54AM
2 is there any other -- any others, you guys should know this 10:54AM
3 indictment inside out. 10:55AM

4 MS. M. MILLER: No, no, 47. 10:55AM

5 THE COURT: So let me just little tag it there. 10:55AM
6 47. So let's start with -- let everybody look at 47 right 10:55AM
7 now. Let me look at that too. The conspiracy... 10:55AM

8 (Pause.) 10:55AM

9 THE COURT: So that's Count 1, though. That's 10:55AM
10 really -- 47 comes under Count 1, okay. That's where -- we 10:55AM
11 see that. That's already incorporated. So really, it's just 10:55AM
12 the other -- she's citing to Count 1, and then the two other 10:55AM
13 counts. So -- 10:55AM

14 MR. MARTIN: It's all -- I mean, you've already 10:55AM
15 ruled on counts -- I think 8 through 13, Your Honor. 10:55AM

16 THE COURT: Yeah. 10:55AM

17 MR. MARTIN: And she's asking you to allow her to 10:55AM
18 bring this in under Count 1. 10:56AM

19 THE COURT: I -- I ruled on Counts 9, 10 and 13. 10:56AM
20 Those are the ones. So I already heard your argument on 10:56AM
21 Count 1. Because that's the overall charge of conspiracy. 10:56AM
22 What about count -- now she's citing to Count 51. 10:56AM

23 MS. M. MILLER: No, that's still -- 10:56AM

24 MR. MARTIN: That's a paragraph in Count 1. 10:56AM

25 THE COURT: Oh, that's still in Count 1, okay. 10:56AM

1 MS. M. MILLER: It's all Count 1. Everything 10:56AM
2 that I cited, Your Honor, was Count 1. 10:56AM

3 THE COURT: Oh, that's all right. That's right. 10:56AM

4 MS. M. MILLER: Yes. 10:56AM

5 THE COURT: It's all in Count 1. Okay. Those 10:56AM
6 two are in Count 1. 10:56AM

7 MS. MCCONWELL: And, Your Honor, you had already 10:56AM
8 -- 10:56AM

9 THE COURT: Is the Count 1 -- hold on. Is the 10:56AM
10 Count 1, let me look at this for one second then. I need to 10:56AM
11 review this carefully. I know that Count 1... okay. So 59 10:56AM
12 was N9068F. And I -- 10:56AM

13 MS. MCCONWELL: You have 51 and then you'd have 10:56AM
14 paragraphs 59 through 61 and that's the 908 -- 68F. And 51 10:56AM
15 was 104BN. And, Your Honor, when you initially ruled, you 10:56AM
16 already identified those four paragraphs and those two 10:57AM
17 incidents. 10:57AM

18 THE COURT: Are those contained -- let me just be 10:57AM
19 sure, are those contained in either Counts 9, 10 and 13? 10:57AM

20 MS. MCCONWELL: No. 10:57AM

21 THE COURT: They're not. So they're different, 10:57AM
22 they're different -- 10:57AM

23 MS. M. MILLER: This is all Count 1. 10:57AM

24 THE COURT: All right. Okay. That's Count 1. 10:57AM
25 So -- but I guess my question is -- all right. All right. So 10:57AM

1 that is just Count 1.

10:57AM

2 MS. M. MILLER: Just Count 1.

10:57AM

3 THE COURT: Right. All right. So essentially,
4 then it's Count 1, 9, 10, and 13. So if there is going to be
5 an additional -- if there is going to be an additional injury
6 or serious -- I mean a death, then it will relate to those two
7 helicopters.

10:57AM

10:57AM

10:57AM

10:57AM

10:57AM

8 MS. M. MILLER: No, Your Honor. Paragraph 47
9 identifies nine deaths as a result of the Defendants'
10 accidents, paragraph 9.

10:57AM

10:57AM

10:57AM

11 THE COURT: Okay. Hold on.

10:57AM

12 MS. M. MILLER: 47. I'm sorry, paragraph 47
13 refers to nine deaths.

10:57AM

10:57AM

14 THE COURT: 47. Oh, it says numerous persons
15 died, it doesn't say nine. Where does it say nine?

10:57AM

10:58AM

16 MS. M. MILLER: It says numerous persons died,
17 many more were seriously injured. Yes, you're right.

10:58AM

10:58AM

18 THE COURT: So it doesn't say nine.

10:58AM

19 MS. M. MILLER: No, it says many died, and many
20 were seriously injured. Then, Your Honor, for the record,
21 Mr. Guzzetti's disclosure in May of 2020, gave the Defendants
22 notice of the following --

10:58AM

10:58AM

10:58AM

10:58AM

23 THE COURT: All right. Let's not -- let's not
24 worry -- I don't want to get into his disclosures right now.
25 My focus is on the indictment only.

10:58AM

10:58AM

10:58AM

1 MS. M. MILLER: Yes. 10:58AM

2 THE COURT: All right. So I've got -- I see it 10:58AM
3 says numerous. 10:58AM

4 MS. M. MILLER: Yes. 10:58AM

5 THE COURT: All right. So my question is, on 10:58AM
6 paragraphs 51 and 59, which are part of the conspiracy charge. 10:58AM

7 MS. M. MILLER: Yes. 10:58AM

8 THE COURT: In Count 1. 10:58AM

9 MS. M. MILLER: Yes. 10:58AM

10 THE COURT: Are those different events, different 10:58AM
11 deaths and/or serious bodily injuries from Counts 9, 10, and 10:58AM
12 13? 10:58AM

13 MS. M. MILLER: Yes. 10:58AM

14 THE COURT: All right. That's all I want to 10:58AM
15 know. You don't have to tell me about the disclosure stuff 10:58AM
16 because I -- I understand the argument on there. Yes? 10:59AM

17 MR. MARTIN: We don't know who 9, 10, and 13 are 10:59AM
18 because it's not in the indictment, it's not in their -- that 10:59AM
19 they filed. And so I don't know how they -- I mean, I know 10:59AM
20 that Count 9, Your Honor, based on their bill of particulars, 10:59AM
21 alleges to something that occurred on August 24th, 2016, with 10:59AM
22 a purchase order, but we don't have anything from that bill of 10:59AM
23 particulars about a death. I know from Count 10 that that is 10:59AM
24 a -- that is an attempt or conspiracy to commit an offense, 10:59AM
25 but there is no reference in there about a death or serious 10:59AM

1 bodily injury. So we don't know from the indictment or the
2 bill of particulars that they filed pursuant to your Court
3 order what helicopters, what dates they're referring to, for
4 those two counts. And then they try to say, oh, and we got
5 more going back to these others where they don't identify
6 them, doesn't give us notice.

7 MS. M. MILLER: May I approach, Your Honor, with
8 the summary chart that was given to the Defendants two years
9 ago? So that you could see what they are claiming did not
10 give them sufficient notice.

11 THE COURT: All right. That's fine. Do you have
12 that?

13 MS. M. MILLER: They do.

14 MR. MARTIN: Well, I'd like to know what number
15 she's referring to.

16 THE COURT: Give her -- give him the cite of what
17 you're referring to --

18 MS. M. MILLER: It's Exhibit 1242, Your Honor.

19 THE COURT: Okay. Exhibit 1242.

20 MS. M. MILLER: Yes, Your Honor.

21 THE COURT: Okay.

22 MS. M. MILLER: So as you could see, they've had
23 that for two years. That's why this is such an insincere
24 argument that they don't know about these other accidents,
25 they don't know about these other incidents, they don't know

1 about these other deaths, that's not true. If you look at 11:00AM
2 that summary chart I just gave you, which defense Counsel had 11:00AM
3 just three months after Mr. Guzzetti's disclosure where he 11:00AM
4 said that he looked at 53 different cases, that's in his 11:00AM
5 disclosure in May, and he said that he was putting together 11:00AM
6 the summary chart that would identify all of the accidents 11:01AM
7 that occurred after Hansen Helicopters owned this. And that's 11:01AM
8 Exhibit G-1242, Emily. 11:01AM

9 MR. MARTIN: The problem, Your Honor -- 11:01AM

10 MS. M. MILLER: And so I'm still -- I'm still 11:01AM
11 making this assertion, Your Honor. 11:01AM

12 THE COURT: Okay. 11:01AM

13 MS. M. MILLER: When you look at that, the 11:01AM
14 defense has had notice May of 2020 from Mr. Guzzetti's 11:01AM
15 disclosure which said here's the number of accidents I 11:01AM
16 reviewed, here's the number of injuries, here's the number of 11:01AM
17 deaths, here's the number of analyses that I performed, etc. 11:01AM

18 Then two months later, we give them two summary 11:01AM
19 charts with all of the underlying data. The summary charts 11:01AM
20 identify the tail number of the helicopters -- 11:01AM

21 THE COURT: Okay. And I saw that. I've read it. 11:01AM

22 MS. M. MILLER: You have all of that. They had 11:01AM
23 it for two years, including all of the underlying documents, 11:01AM
24 that's why this is so insincere. 11:02AM

25 THE COURT: Okay. I've got the -- I read the 11:02AM

1 chart real quickly, has a red highlighted portion that shows 11:02AM
2 nine deaths alleged deaths. Okay. Let me just say something, 11:02AM
3 let me just go back for one second just to -- 11:02AM

4 MR. MARTIN: May I briefly respond to -- 11:02AM

5 THE COURT: Yeah, you can respond to that in a 11:02AM
6 minute, but let me just -- to close the argument by 11:02AM
7 Mr. McConwell. So I went back to -- I pulled up my ECF 706, 11:02AM
8 the Court's order denying Daubert motion and the Daubert 11:02AM
9 motion, as the Counsels know, has to be based on methodology, 11:02AM
10 not on the quality of evidence and in my ruling, so sometimes 11:02AM
11 I have to go back and remember what did I write, I issue so 11:02AM
12 many orders that I have to look and see what did I order. 11:02AM

13 The Court said that the specific factors 11:02AM
14 discussed in Daubert peer review publication potential error 11:02AM
15 rate, etc., and on which Defendants rely heavily on their 11:02AM
16 objections are particularly helpful, thank you, in cases where 11:02AM
17 the reliability of expert testimony depends on the correct 11:02AM
18 application of a valid methodology. However, those same 11:02AM
19 factors simply are not applicable to some kinds of testimony 11:03AM
20 whose reliability depends heavily on the knowledge and 11:03AM
21 experience of the expert rather than methodology of the theory 11:03AM
22 behind it. 11:03AM

23 The Court -- I cite U.S. v. Hankey, H-A-N-K-E-Y, 11:03AM
24 203 F.3d 11601169[sic], 9th Circuit, 2000. Most, if not all, 11:03AM
25 of the opinions contained in the prosecution's expert 11:03AM

1 disclosures fall into the latter category. And let me just 11:03AM
2 say, let me see what I put here. All right. I said, "This is 11:03AM
3 not intended to suggest that every proffered expert testimony 11:03AM
4 will be admissible at trial. The Court simply finds," and 11:03AM
5 this is what I found, "that in light of the nature of the 11:03AM
6 expert testimony, proffered by the government, no special 11:03AM
7 pretrial proceedings were necessary to determine the 11:03AM
8 admissibility of the government's expert testimony. Rather, 11:03AM
9 the ordinary procedures for objecting during trial will 11:03AM
10 adequately permit the Court to fulfill its gatekeeping role. 11:03AM
11 However, as you might know," I did say, "if it becomes clear 11:04AM
12 during trial that a Daubert hearing would be helpful in 11:04AM
13 assessing the reliability of a particular expert's testimony, 11:04AM
14 the Court will hold one." But I don't -- anyway, so that was 11:04AM
15 my -- I wanted to go back. What did I rule again? So that's 11:04AM
16 -- that was my ruling. 11:04AM

17 MR. MCCONWELL: That's what I was referring to in 11:04AM
18 my motion, actually. If now is the time to bring it up. They 11:04AM
19 -- I'm happy to hear them say that the Count 1 deaths are 11:04AM
20 different than the Counts in 9, 10 and 13 deaths. They've 11:04AM
21 never identified those deaths, they've never identified the 11:04AM
22 failure of a single pitch link. There is no evidence in their 11:04AM
23 documents they're going to have with the witness, and I say 11:04AM
24 that should be something precluded from speculating about 11:04AM
25 whether there was a death that proximately caused the death. 11:04AM

1 THE COURT: All right. So the prosecution now 11:04AM
2 has cited -- and this is exhibit what, 1241? 11:04AM

3 MS. M. MILLER: 1242, Your Honor. 11:04AM

4 THE COURT: 1242. The prosecution has excited -- 11:04AM
5 not excited -- cited to 1242. And so the Court is just -- 11:05AM
6 look at this just quickly and sees that on their injuries, you 11:05AM
7 see the red highlights there. So that is what I asked you to 11:05AM
8 respond to. 11:05AM

9 MR. MCCONWELL: It doesn't respond to a failure 11:05AM
10 of a pitch link, which wrecks or accidents involve that, or 11:05AM
11 which -- which ones actually involved the death that are 11:05AM
12 separate than their Count 1 allegations. 11:05AM

13 THE COURT: Well, it has remarks there. It has 11:05AM
14 remarks. 11:05AM

15 MR. MCCONWELL: It doesn't tie anything to pitch 11:05AM
16 link failure. That's the problem. And that's -- and that's 11:05AM
17 the enhanced penalty that's going to occur in 38 -- the three 11:05AM
18 paragraphs. And that was the purpose of my motion. 11:05AM

19 THE COURT: Well, so some of the remarks in the 11:05AM
20 -- this particular 1242, does indicate they have the words 11:05AM
21 tail rotor -- tail rotor pitch link. 11:05AM

22 MR. MCCONWELL: I'm not sure it ties to one of -- 11:05AM
23 one of the deaths. The fact that there may have been a tail 11:05AM
24 rotor problem or bearing within a tail rotor in one of the 11:05AM
25 other accidents doesn't mean it was one that was in the -- in 11:06AM

1 an accident that caused a death. And that's what we're tying
2 it up.

3 THE COURT: Okay. I mean, you make a good point.
4 I suppose, again, that -- all right. So for purposes of those
5 -- the three that I have already said could go through -- no,
6 I'm sorry, did you say that those--

7 MR. MCCONWELL: 9, 10, and 13.

8 THE COURT: 9, 10, 13 occurred before Hansen
9 Helicopters became owners?

10 MS. M. MILLER: No.

11 THE COURT: Or occurred after?

12 MS. M. MILLER: No, after.

13 MR. MCCONWELL: After original ones involving
14 Hansen or the -- the subsidiary corporation.

15 THE COURT: So, again, you know, if we -- well, I
16 don't need to tell you guys how to do your closing arguments
17 but --

18 MR. MCCONWELL: We'll bring it up, I'm sure.

19 THE COURT: I'm sorry?

20 MR. MCCONWELL: I think I'd like to block it from
21 the jury knowing because it's pure speculation at this point.

22 THE COURT: No, no, this is critical. I mean, I
23 know that -- so that there is a lot to lose here, a lot to
24 gain for whoever, whoever the Court decides. I already made a
25 decision as to three. The question is do I make a decision,

1 do I allow any -- an additional two, or full nine, or 11:06AM
2 whatever. That's really the question. So you're just saying 11:07AM
3 it's still not enough? 11:07AM

4 MR. MCCONWELL: We don't know who the -- we don't 11:07AM
5 know the deaths -- we do not know the deaths. 11:07AM

6 THE COURT: Well, it says -- it says the deaths 11:07AM
7 here, it shows the deaths. 11:07AM

8 MS. M. MILLER: Yes. 11:07AM

9 THE COURT: It says fatalities. 11:07AM

10 MR. MCCONWELL: The type of the failure of the 11:07AM
11 pitch link is my problem. 11:07AM

12 THE COURT: Okay. All right. Ms. McConwell, do 11:07AM
13 you have anything, and then I'll go to Mr. Martin? 11:07AM

14 MR. MCCONWELL: And I'll drop off now. 11:07AM

15 THE COURT: No, no, thank you. 11:07AM

16 Ms. McConwell, anything further? 11:07AM

17 Mr. Martin, on this issue? Of 1242? 11:07AM

18 MR. MARTIN: On 1242, Your Honor, the problem I 11:07AM
19 have with it, although I have the chart, it doesn't 11:07AM
20 specifically tie it to Counts 8 through 13, so we don't know 11:07AM
21 which ones we're defending against. I know this is the 11:07AM
22 government's allegation within their conspiracy, but the chart 11:07AM
23 in and of itself has things that completely negate the fact 11:07AM
24 that it was caused by some -- a failure of a tail rotor pitch 11:07AM
25 change link, just by reading the comments. 11:07AM

1 THE COURT: All right, but by virtue of the 11:07AM
2 summary chart though, as we all know under the rule of 11:08AM
3 evidence, the summary chart has to be substantiated by 11:08AM
4 documents, and you are to have received that in discovery. 11:08AM
5 Right? 11:08AM

6 MS. M. MILLER: Which they have, two years ago. 11:08AM

7 THE COURT: That's -- that's what's critical. 11:08AM

8 MS. MCCONWELL: In January, Mr. McConwell 11:08AM
9 provided to Ms. Miller, actually I think I did, there were a 11:08AM
10 number of line items on those where no documentation was 11:08AM
11 provided, and our objection has been also to the remarks -- 11:08AM
12 that remarks column on the far right, which is what 11:08AM
13 Mr. Guzzetti has said which don't -- doesn't appear to be tied 11:08AM
14 to the documents that form the basis for the left portion of 11:08AM
15 the chart. 11:08AM

16 THE COURT: All right. So are you saying though 11:08AM
17 then that -- okay. So if we have a summary chart, did you 11:08AM
18 guys agree on this summary chart, 1242. 11:08AM

19 MS. MCCONWELL: No, ma'am. 11:08AM

20 MS. M. MILLER: We discussed it, and this is the 11:08AM
21 circular argument over -- 11:08AM

22 THE COURT: No, wait, wait, I only asked the 11:08AM
23 question, did you agree? 11:08AM

24 MS. M. MILLER: We did not agree because it's the 11:08AM
25 same thing. 11:09AM

1 THE COURT: So that's all I asked about. 11:09AM

2 MS. M. MILLER: Yes. 11:09AM

3 THE COURT: So you did not agree to this. So 11:09AM
4 it's still pending as to whether or not it's admissible? 11:09AM

5 MS. M. MILLER: Yes. 11:09AM

6 THE COURT: The summary chart. All right. Are 11:09AM
7 you trying to put in 1242? 11:09AM

8 MS. M. MILLER: Yes, and their argument -- 11:09AM

9 THE COURT: Hold on, hold on, hold on. All I 11:09AM
10 care -- I got to focus here. So on 1242, are you telling me 11:09AM
11 that, Ms. McConwell, that as far as you know, that any and all 11:09AM
12 documentation provided by the prosecution to substantiate 11:09AM
13 summary chart 1242, do not connect the failure of the... 11:09AM

14 MR. MCCONWELL: Tail rotor. 11:09AM

15 THE COURT: Yeah, here it is. Tail rotor pitch 11:09AM
16 link to any deaths? 11:09AM

17 MR. MCCONWELL: Right. 11:09AM

18 MS. MCCONWELL: Yes. 11:09AM

19 THE COURT: Mr. McConwell says, yes, Ms. 11:09AM
20 McConwell -- Mr. Martin. 11:09AM

21 MR. MARTIN: I join, Your Honor. 11:09AM

22 THE COURT: Not one? And has -- not one? 11:09AM

23 MR. MARTIN: Not one. 11:09AM

24 MR. MCCONWELL: Not one. 11:09AM

25 MR. MARTIN: Not one. 11:09AM

1 THE COURT: Wow, that's -- that's -- let me just 11:09AM
2 say, that's -- 11:10AM
3 MR. MARTIN: The best we have, Your Honor, is -- 11:10AM
4 THE COURT: I'm sorry? 11:10AM
5 MR. MARTIN: The best we have from the government 11:10AM
6 is it fits the pattern. That's -- 11:10AM
7 MR. MCCONWELL: On 30 -- 11:10AM
8 MR. MARTIN: Right. 11:10AM
9 THE COURT: It fits the pattern? 11:10AM
10 MR. MARTIN: The testimony, as represented in 11:10AM
11 this summary, is that the accident against -- as observed fit 11:10AM
12 the pattern that these could possibly be tail rotor pitch 11:10AM
13 change link failures. 11:10AM
14 THE COURT: So are you telling -- okay. So but 11:10AM
15 have you all -- so you did submit objections? You said I 11:10AM
16 object to the summary chart because it doesn't -- it's not 11:10AM
17 sufficient to answer our objections. 11:10AM
18 MR. MCCONWELL: The comments are what we object 11:10AM
19 to. 11:10AM
20 THE COURT: The remarks? You mean remarks? 11:10AM
21 MS. M. MILLER: Yes, the remarks. 11:10AM
22 MS. MCCONWELL: The remarks and the lack of 11:10AM
23 connecting with the tail rotor pitch link blank. 11:10AM
24 THE COURT: Right. So there is three -- there's 11:10AM
25 -- all right. So there is -- 1, 2, 3, 4, 5. 5 columns, and 11:10AM

1 you got -- so the defense is objecting to, what do you call
2 it, Mr. Guzzetti's conclusions or remarks, that's what you're
3 objecting to? And that's what you have objected to throughout
4 the discovery process, throughout and up till today?

5 MS. MCCONWELL: (Nodded head.)

6 MS. M. MILLER: And, Your Honor, has said to the
7 defense repeatedly, show me the money. Show the NTSB report
8 that Mr. Guzzetti is summarizing here and the inconsistency or
9 inaccuracy between that underlying document and his comments.
10 And the defense has not once in two years done that. Their
11 argument has been this general, general, "we don't like the
12 comments; we don't like the remarks." So on the one hand,
13 they say we don't know which accidents were caused by the tail
14 rotor pitch change link, but then they just admit, well, we do
15 know which accidents he's going to say were caused by the tail
16 rotor pitch change link, but we still don't have enough
17 information. This is a criminal case, this is not a civil
18 case. This Court in ECF 1179 already ruled on this issue.
19 And this Court has repeatedly, repeatedly told the defense
20 Counsel, even as recently as yesterday, if you have a specific
21 objection to these charts, based on the underlying documents,
22 you must give that to the government, they still don't.

23 THE COURT: All right.

24 MS. M. MILLER: It's still this general thing.
25 1179 you said, Your Honor, "The Ninth Circuit has stated that

1 a defendant is not entitled to know all the evidence the 11:12AM
2 government intends to produce, but only the theory of the 11:12AM
3 government's case." And you cited *United States versus Ryland* 11:12AM
4 9th Circuit for that proposition. 11:12AM

5 THE COURT: Okay. I got it, I got it, I got your 11:13AM
6 argument. Let me -- okay. I got it. Okay. You can be 11:13AM
7 seated, Ms. Miller. 11:13AM

8 MS. M. MILLER: Thank you, Your Honor. 11:13AM

9 THE COURT: All right. Well, well, well, 11:13AM
10 (laughing) here we are, it's 11:13 and we are now at the 11:13AM
11 finish line, the end of the -- right at the -- like right 11:13AM
12 before the finish line and we have this issue. So let me -- 11:13AM
13 let me see, it's 11:13, the jurors are going to -- they are 11:13AM
14 getting their lunch shortly. So what I'm going to do is I'm 11:13AM
15 going to have you all go and get your lunch now, and I'm going 11:13AM
16 to come back with my ruling on this issue. Okay. 11:13AM

17 MS. M. MILLER: Thank you, Your Honor. 11:13AM

18 THE COURT: Anything further? That's it. 11:13AM

19 MS. M. MILLER: No, that's it. 11:13AM

20 THE COURT: All right. Thank you. So our -- we 11:13AM
21 have -- we go from 11 -- 11:13AM

22 MS. MCCONWELL: I think it's 11:45 to 12:30. 11:13AM

23 THE COURT: Okay. 11:45 to 12:30. Yeah. So 11:13AM
24 come back at 12:30. So the jurors are already used to that. 11:13AM
25 Let me ask you this though, Counsels. 11:13AM

1 (Pause.) 11:14AM

2 THE COURT: All right. For -- under Rule 1006, 11:14AM
3 Defendants do have to give a specific objection for notice, 11:14AM
4 I'm thinking that the language in paragraph 47 so paragraph 47 11:14AM
5 in the grand jury indictment, I don't think it's enough to put 11:14AM
6 the Defendants on notice that accidents, other than the ones 11:14AM
7 mentioned in the Second Superseding Indictment, will be used 11:14AM
8 to prove any of the counts. Let me just say that's what I'm 11:14AM
9 thinking temporarily -- as of right now. I -- let me -- let 11:14AM
10 me just say, in the accidents in paragraph 50 aren't 11:14AM
11 prejudicial because they weren't allegedly caused by the 11:14AM
12 Defendants on 50. Let me just say, okay. So this indictment 11:14AM
13 is like -- unlike -- is like other indictments, it's not 11:14AM
14 precisely crafted. I -- I will say that. It's not. Part of 11:14AM
15 the problem is that the United States Attorney's Office is 11:15AM
16 still investigating. That's -- that's part of the issue. Is 11:15AM
17 that -- I mean, so that can cause problems. But also, there 11:15AM
18 is an inordinate amount of -- of discovery here. I know that. 11:15AM
19 That doesn't excuse anything. 11:15AM

20 MS. M. MILLER: We just want -- we just want 11:15AM
21 1242, which they've had -- that's a summary chart, they've had 11:15AM
22 it for two years. Those are the only accidents and incidents 11:15AM
23 that we want to use. 11:15AM

24 THE COURT: But Counsel, anyway, my point is I'm 11:15AM
25 going to go back and look at it, but I'm just telling you that 11:15AM

1 -- that -- you know, I've -- I've really looked at this issue 11:15AM
2 of notice, you know, I've given -- I've actually given you 11:15AM
3 guys the benefit of the doubt. I let the prosecution have the 11:15AM
4 alter ego corporations in. Some of them, not all of them. 11:15AM

5 MS. M. MILLER: Right. 11:15AM

6 THE COURT: But on this issue, this is -- this is 11:15AM
7 causing death and serious bodily injury. It is high stakes 11:15AM
8 for both sides. 11:15AM

9 MS. M. MILLER: Yes. 11:15AM

10 THE COURT: For prosecution and defense. Really, 11:15AM
11 again, you know, I'm -- I'm pretty conservative in terms of 11:16AM
12 pleadings, I always believe that, man if you're a prosecutor, 11:16AM
13 put everything in the indictment. Everything. I mean, to the 11:16AM
14 extent that you can do it. And give the defendants all notice 11:16AM
15 that they can. That's just always been my philosophy as a 11:16AM
16 prosecutor, a former prosecutor. And even just as a judge 11:16AM
17 watching this because things always unravel during trial. 11:16AM
18 This is a big case, it's a 100-count indictment. Involves so 11:16AM
19 many defendants. But Mr. Walker and Hansen Helicopters are on 11:16AM
20 trial right now. And the United States Attorney's Office 11:16AM
21 represents the United States of America, this is also a trial 11:16AM
22 for them too. 11:16AM

23 MS. M. MILLER: Absolutely. 11:16AM

24 THE COURT: So I -- I understand that, I'm going 11:16AM
25 to think about this issue, and I'll come back. All right. 11:16AM

1 MS. M. MILLER: Thank you, Your Honor. 11:16AM

2 THE COURT: Have a nice lunch. All right. Take 11:16AM
3 care. Thank you. 11:16AM

4 So we'll have Mr. Guzzetti start then right after 11:16AM
5 lunch at 12 -- did I -- what time is it? 12:45? Is that when 11:16AM
6 we come back usually? It's 11:45 to 12:30, right, is our 11:17AM
7 lunch break? We're going to take lunch early so I can make 11:17AM
8 this ruling. 11:17AM

9 MS. M. MILLER: Thank you, Your Honor. 11:17AM

10 THE COURT: Thank you, take care. 11:17AM

11 (Recess taken at 11:17 a.m.) 11:17AM

12 (Back on the record at 12:34 p.m.) 12:34PM

13 THE COURT: We're outside the presence of the 12:35PM
14 jury. And let's see. So I think we have additional 12:35PM
15 information regarding Guzzetti submitted to the Court; is that 12:35PM
16 right? So I just had a chance to review. You got a chance to 12:35PM
17 review that, Counsel, defense? Memorandum or an e-mail from 12:35PM
18 Ms. Samantha Miller? 12:35PM

19 MR. MARTIN: We got it, Your Honor, we sent you 12:35PM
20 an e-mail response. 12:35PM

21 THE COURT: Oh, you did? You sent me something? 12:35PM

22 MR. MARTIN: Well, we just said that -- 12:35PM

23 THE COURT: Sorry, can you get on your mic there? 12:35PM

24 MR. MARTIN: Is there another one? 12:35PM

25 MS. M. MILLER: No. 12:35PM

1 THE COURT: Oh, I don't know. I just got this 12:35PM
2 like -- 12:35PM

3 MS. M. MILLER: It's not. 12:35PM

4 MR. MARTIN: I'm sorry. I wasn't on the 12:35PM
5 microphone, Your Honor. 12:35PM

6 THE COURT: It says additional -- today is 12:35PM
7 May 22nd, right? 12:35PM

8 MS. M. MILLER: Yes, well -- 12:36PM

9 MR. MARTIN: During the lunch hour, they sent 12:36PM
10 another one. I think Laura responded to it, Your Honor. 12:36PM

11 THE COURT: Okay. Let me get there -- let me -- 12:36PM

12 MR. MARTIN: Just if we could -- we're happy to 12:36PM
13 make further discussion with the Court on it, but we disagree 12:36PM
14 with it. 12:36PM

15 THE COURT: All right. Well, let me just make my 12:36PM
16 rulings. I -- I've read this without looking at the 12:36PM
17 objections from defense, I'm sorry, I did not or not 12:36PM
18 objections, but -- well, I guess objections or response. So 12:36PM
19 the Court has considered all the arguments by Counsel. And 12:36PM
20 I've already made my ruling regarding the motion in limine by 12:36PM
21 Mr. McConwell and team. And so the Court will stand by that 12:36PM
22 ruling on those three particular counts. 12:36PM

23 Any other deaths or serious bodily injury, the 12:36PM
24 Court will disallow at this time. And I know you guys have 12:36PM
25 made all your arguments ad nauseam, I've heard it, I've seen 12:36PM

1 it, and we don't need to go through it again. I believe that 12:36PM
2 pursuant to federal evidence -- Federal Rule of Evidence 403 12:37PM
3 in particular, the Court finds that for the Court to allow 12:37PM
4 these additional requests by prosecution, it would be in 12:37PM
5 violation of 403. The Court believes that the probative value 12:37PM
6 is substantially outweighed by danger of unfair prejudice. 12:37PM
7 And so the Court has already discussed that earlier. So at 12:37PM
8 this time, with regard to the -- as I've indicated, I've 12:37PM
9 already made my ruling. So we'll stick with that. Anything 12:37PM
10 further, Counsel? And if not we'll proceed forward. 12:37PM

11 MS. M. MILLER: I want to make sure I understand 12:37PM
12 your ruling. So then for Mr. Guzzetti's chart 1242, we need 12:37PM
13 to redact the column that has a reference to death and serious 12:37PM
14 bodily injury; is that correct, Your Honor? 12:38PM

15 THE COURT: Unless it relates to the three counts 12:38PM
16 -- 12:38PM

17 MS. M. MILLER: The Counts 9 -- yes, yes, yes. 12:38PM
18 So the two that relate to that are 9068F and 74LB. And what 12:38PM
19 we'll do is we will redact that column for the rest of those 12:38PM
20 accidents and incidents and, Your Honor, I'm assuming that -- 12:38PM

21 THE COURT: You'll redact -- oh, I see, I'm sorry 12:38PM
22 you'll redact -- 12:38PM

23 MS. M. MILLER: The column that has serious 12:38PM
24 bodily injury or death, so we will -- we will redact that 12:38PM
25 column with the exception of the two accidents that 12:38PM

1 Mr. Guzzetti will testify were approximately caused by the
2 failure of the tail rotor pitch change link which are accident
3 9068F and accident 74LB.

4 THE COURT: So just to be clear, let me just ask
5 you, just to be clear on this 1242, the third column says
6 injuries, so --

7 MS. M. MILLER: That would be redacted.

8 THE COURT: The entire -- the entire column will
9 be redacted?

10 MS. M. MILLER: Yes.

11 THE COURT: Pull that all out, but everything
12 else you want to leave as is?

13 MS. M. MILLER: Yes.

14 THE COURT: Okay. I don't think I have a problem
15 with that, but I -- let me hear from the defense.

16 MS. M. MILLER: And no, the other thing I want to
17 make sure we're not going have a problem with, the jury has
18 already heard evidence about the death of Mr. Santos, 9068F,
19 and that is, Your Honor, one of the deaths that we attribute
20 to a failure of the tail rotor pitch change link. So I don't
21 think there is any problem there.

22 THE COURT: Yeah, that's already been -- I've
23 already allowed this.

24 MS. M. MILLER: That's already in evidence. The
25 jury also heard, Your Honor, the death of the spotter who was

1 on the aircraft, N471M, with Mr. Bustos. And they've also
2 heard about the serious bodily injury to both the pilot and
3 the spotter in N805LA, which was testified to by Mr. Reed and
4 Ms. Leon Guerrero. If you recall, Your Honor, that was the
5 aircraft that was brought in to the Guam harbor, and the pilot
6 was removed from the aircraft. He had a broken back and put
7 in the Hansen Helicopter's van. So those pieces of evidence
8 have already been come in, Your Honor. And those are
9 incidents that I will be discussing with Mr. Guzzetti during
10 his testimony.

11 Mr. Braga testified about his accident, 4910,
12 said he had minor injuries as a result of that accident. And
13 then, of course, in our Second Superseding Indictment, we do
14 also discuss the death associated with N104BN. And I'm
15 assuming that that --

16 THE COURT: I'm sorry. What was your last part?
17 You're assuming what?

18 MS. M. MILLER: In our Second Superseding
19 Indictment, I cited the paragraph to you, Your Honor, that
20 talked about 104, N104BN.

21 THE COURT: Okay. Hold on one second. Anything
22 else?

23 MS. M. MILLER: No, that's it.

24 THE COURT: All right. So hold on, hold on, hold
25 on, Defense, calm down.

1 MR. MARTIN: I just -- 12:41PM

2 THE COURT: Wait just a minute. 12:41PM

3 MR. MARTIN: Repeat the numbers. 12:41PM

4 THE COURT: Oh, repeat the numbers then. 12:41PM

5 MR. MARTIN: That that's all I'm asking. 12:41PM

6 MS. M. MILLER: So the numbers, Your Honor, are 12:41PM

7 471M, N471M... RPC4910, 9068F, 74LB, 805LA, and 104BN. 12:41PM

8 And what we're going to do, Your Honor, so that 12:41PM

9 there is no issue, we'll redact that entire column from 12:41PM

10 Exhibit 1242, but Mr. Guzzetti will testify about those 12:41PM

11 accidents and incidents that caused serious bodily injury or 12:42PM

12 death -- 12:42PM

13 THE COURT: Well, yeah, I don't -- I think -- and 12:42PM

14 I agree, I think, to the extent that it's either in the 12:42PM

15 indictment, I already ruled on that. And to the extent that 12:42PM

16 there's already been testimony and, you know, whatever 12:42PM

17 objections were made, the Court ruled on those objections. 12:42PM

18 MS. M. MILLER: Right. 12:42PM

19 THE COURT: So Counsel will all have to abide by 12:42PM

20 those. But to that extent, the Court will allow that evidence 12:42PM

21 in. I don't disagree with you on that. 12:42PM

22 MS. M. MILLER: Right. Right. 12:42PM

23 MR. MARTIN: May I talk to Marie a minute, Your 12:42PM

24 Honor? 12:42PM

25 THE COURT: Okay. Hold on. Wait, wait. So he 12:42PM

1 wants to talk to Ms. Miller, and you want to talk. So hold
2 on. I gotta do one or the other. Yes, Ms. McConwell, go
3 ahead, you're first.

4 MS. MCCONWELL: I was just going to say N74LB is
5 not in your order, the two that were in your order were the
6 9068F and 104BN.

7 MS. M. MILLER: No, Laura, 74LB is one of the
8 aircraft that Mr. Guzzetti is going to testify was caused by
9 the failure of the tail rotor pitch change link. Remember you
10 said you didn't know which two? Those are the two, 9068F and
11 74LB.

12 MS. MCCONWELL: Well, the two that we discussed
13 prior to the break --

14 MS. M. MILLER: No, no, no, I'm not talking about
15 what we had discussed prior to the break. The Judge's order
16 regarding Counts 9, etc., the aircraft parts fraud was the
17 only accidents that the government can discuss that caused
18 death or serious bodily injury are those that we contend were
19 approximately caused by a failure of the tail rotor pitch
20 change link. I'm telling you that 74LB is one of those. That
21 accident is not excluded by the Court's earlier order, and it
22 is not excluded by her order now.

23 MS. MCCONWELL: Well, the Court's order, 1707,
24 identified 9068F and 104BN, and I did not see 74LB listed.
25 Which page is that listed on?

1 MS. M. MILLER: There is no page. The Court's 12:44PM
2 order was that any of the accidents that the government 12:44PM
3 contends were proximately caused by a failure of the tail 12:44PM
4 rotor pitch change link may come in. I am telling you that 12:44PM
5 those accidents include N74LB. 12:44PM

6 THE COURT: Okay. So -- 12:44PM

7 MS. MCCONWELL: I'm not conceding to that. I'll 12:44PM
8 let Mr. Martin talk, and I'll reread the order -- 12:44PM

9 THE COURT: All right. Why don't you guys all -- 12:44PM
10 why don't you go together though so you guys are all -- Ms. 12:44PM
11 McConwell, then you could come back and look at your notes, 12:44PM
12 but so you guys all understand the Court's ruling. 12:44PM

13 (Counsel conferred.) 12:44PM

14 THE COURT: And then we could get to Mr. 12:44PM
15 Guzzetti's testimony. 12:44PM

16 (Pause.) 12:44PM

17 THE COURT: You're just going to merge the 12:45PM
18 columns and just delete that out? 12:45PM

19 MS. M. MILLER: Yeah. 12:45PM

20 THE COURT: Good. 12:45PM

21 MS. MCCONWELL: But then she's got all those 12:45PM
22 other things that she has listed and all the remarks on the 12:45PM
23 right side of the column. Are we just going to take those up 12:45PM
24 as we go? 12:45PM

25 THE COURT: Yeah, I think so. I mean, you know I 12:45PM

1 think that -- you know what, that will go really just to the 12:45PM
2 credibility of the witness. I mean, those are his remarks, 12:45PM
3 those are his findings, I suppose, when he conducted his 12:45PM
4 review so -- 12:45PM

5 MS. M. MILLER: They actually aren't. They're 12:45PM
6 just a summary of what he reviewed. 12:45PM

7 THE COURT: All right. So it's even that. Okay. 12:45PM
8 Whatever that is. Yeah. All right. Okay. Is that -- is 12:45PM
9 everybody -- is it clear what the ruling is. 12:45PM

10 MS. M. MILLER: I showed Mr. Martin what we're 12:45PM
11 going to do in terms of the redaction, and he said that's 12:45PM
12 fine. 12:45PM

13 THE COURT: All right. So essentially, Column 3 12:45PM
14 is wiped out completely. 12:45PM

15 MS. M. MILLER: Yes. 12:45PM

16 THE COURT: Deleted. 12:45PM

17 Yes, Ms. McConwell, on the -- on 1242, Column 3? 12:45PM

18 MS. MCCONWELL: No, I'm -- I'm back to 74LB. I 12:46PM
19 don't -- I guess I'm not seeing where in your 1707 that that's 12:46PM
20 -- that that aircraft is allowed. 12:46PM

21 (Pause.) 12:46PM

22 THE COURT: Okay. Hold on. 12:46PM

23 MS. M. MILLER: Your Honor, that aircraft was not 12:46PM
24 specifically addressed in your order. Your order specifically 12:46PM
25 said that the aircraft that the government contends were in an 12:46PM

1 accident as a result of the failure of the tail rotor pitch
2 change link and that caused serious bodily injury or death.
3 Those accidents can come in.

4 THE COURT: I said just two -- okay. So, Ms.
5 McConwell, so I have my order that's pretty clear. The part
6 that's verbally being discussed today and ordered today, right
7 now, is the evidence that has already come into trial,
8 whatever evidence has been brought in through the testimony of
9 whatever witness as far as any event that may have caused
10 bodily injury, whether it's serious or not, or death. And to
11 the extent that there were objections, the objections should
12 be honored, but the prosecution has the right to at least try
13 to bring them in to show something, whatever they're intending
14 to show, and then you have the right to rebut that through
15 cross-examination.

16 MS. MCCONWELL: Okay. I just had understood her
17 say to that your order specifically addressed N74LB, and I
18 just -- I did not see it in the order, which is why I was
19 trying to clarify.

20 THE COURT: So we got it clarified now.

21 MS. MCCONWELL: Right. And so then on their
22 chart, are they then going to be limited to these aircraft
23 that they're contending have already been into evidence and
24 then this additional one that they're claiming is a tail rotor
25 pitch link related failure, or they still going to have all

1 the 35 aircraft identified on the chart?

12:47PM

2 THE COURT: I'm sorry, can you repeat the
3 question?

12:47PM

12:47PM

4 MS. MCCONWELL: Yeah. Their -- their summary
5 chart, 1242, has about 34, 35 aircraft on it.

12:47PM

12:47PM

6 THE COURT: Right.

12:47PM

7 MS. MCCONWELL: And my question, trying to
8 understand the Court's ruling, is there only certain aircraft
9 they're going to -- that the witness is going to be able to
10 testify about, are the other ones going to be redacted from
11 the chart so that we're only --

12:47PM

12:48PM

12:48PM

12:48PM

12:48PM

12 MS. M. MILLER: No.

12:48PM

13 MS. MCCONWELL: Having maybe ten, or wait, 1, 2,
14 3, 4, 5, 6 aircraft on the chart rather than 35?

12:48PM

12:48PM

15 MS. M. MILLER: The Court's ruling --

12:48PM

16 THE COURT: So okay. Hold on. That's a good
17 question.

12:48PM

12:48PM

18 MS. M. MILLER: No, the Court's ruling from my
19 understanding is, any evidence of injury or death is what's
20 coming out. The fact that there were those accidents
21 described in 1242 go to Count 1, which is two-fold. Number
22 one, the mission of the FAA as to safe transportation, and
23 obviously, with 35 accidents, that's not safe transportation.
24 Number 2, 22 of those accidents were never reported to the
25 NTSB. That goes to fraud against the NTSB, failure to report

12:48PM

12:48PM

12:48PM

12:48PM

12:48PM

12:48PM

12:48PM

12:48PM

1 accidents. The Court found that what was 403, what was 12:48PM
2 unfairly prejudicial was for the jury to hear about all of the 12:48PM
3 death and injury not related to the tail rotor pitch change 12:49PM
4 link so -- 12:49PM

5 THE COURT: It's not -- well, it's not just -- 12:49PM
6 okay, and it could be even further could be something not even 12:49PM
7 related or related to something else other than the tail rotor 12:49PM
8 pitch link because it was all about notice. 12:49PM

9 MS. M. MILLER: Correct. 12:49PM

10 THE COURT: So that's not allowed, but you're 12:49PM
11 right to the extent there has been -- if there has been 12:49PM
12 evidence brought in during the trial of all of these 12:49PM
13 incidences -- 12:49PM

14 MS. M. MILLER: Yes. 12:49PM

15 THE COURT: -- occurring on 1242, that are 12:49PM
16 relevant to Charge 1 conspiracy, the answer is yes, that can 12:49PM
17 come in. 12:49PM

18 MS. M. MILLER: And that's our position -- 12:49PM

19 THE COURT: The Court has said that's fine, but I 12:49PM
20 -- but I did say -- but I did exclude any deaths that have not 12:49PM
21 been specifically noted in the -- 12:49PM

22 MS. M. MILLER: The tail rotor pitch change link. 12:49PM

23 THE COURT: Well, tail rotor pitch link and any 12:49PM
24 other type of cause of death -- 12:49PM

25 MS. M. MILLER: Or injury. 12:49PM

1 THE COURT: -- that has not been noted in the 12:49PM
2 indictment. 12:49PM

3 MS. M. MILLER: Yes. 12:49PM

4 MS. MCCONWELL: Or serious bodily injury. 12:49PM

5 THE COURT: Or serious bodily injury; that is 12:50PM
6 correct. 12:50PM

7 MS. M. MILLER: Right. And that's why we're just 12:50PM
8 taking that whole column out so there is no question. 12:50PM

9 THE COURT: Is that clear? Do you guys -- is 12:50PM
10 that -- do you -- 12:50PM

11 MS. MCCONWELL: Well, but she's still leaving all 12:50PM
12 of the aircraft. She may take that column out, but she's 12:50PM
13 still leaving all the aircraft -- all the aircraft on the list 12:50PM
14 that the Court said that they're not supposed to testify 12:50PM
15 about. 12:50PM

16 MS. M. MILLER: Because there is evidence already 12:50PM
17 about those aircraft being involved in accidents after 12:50PM
18 Hansen's ownership. 12:50PM

19 THE COURT: Yes. And -- and I did say that that 12:50PM
20 can come in. What I was very focused on -- and I was trying 12:50PM
21 to streamline it in terms of what I felt would be prejudicial 12:50PM
22 to the Defendant would be the death and serious bodily injury 12:50PM
23 notices. But everything else, if the prosecution has already, 12:50PM
24 to this point, because Mr. Guzzetti is the expert witness, 12:50PM
25 he's coming in, to this point, if they have already introduced 12:50PM

1 evidence of these -- is it 35?

12:50PM

2 MS. M. MILLER: It is -- I'll show you in one
3 second -- can you give me --

12:50PM

12:50PM

4 THE COURT: Hold on -- hold on. Let me just
5 finish my thought here. If the prosecution has already
6 introduced evidence of these numbered -- however numbers,
7 whatever the total number is, in 1242, if that's already been
8 introduced, and admitted, and discussed, and cross-examined,
9 they can bring that out because they are saying that it's
10 relevant to conspiracy in Count 1. Okay. Does that -- you
11 understand that?

12:50PM

12:50PM

12:51PM

12:51PM

12:51PM

12:51PM

12:51PM

12:51PM

12 MS. MCCONWELL: Right. But I just want to make
13 sure, but -- but for the aircraft that are on this list, what
14 -- which have not been brought out already in evidence, that
15 needs to come off the list.

12:51PM

12:51PM

12:51PM

12:51PM

16 THE COURT: Well, I assume that that's -- they're
17 going -- they're going to make sure that's not -- she says
18 these are all in.

12:51PM

12:51PM

12:51PM

19 MS. M. MILLER: They're all in because we already
20 --

12:51PM

12:51PM

21 THE COURT: But you're right to the extent they
22 have not been discussed ever, they should be out.

12:51PM

12:51PM

23 MS. M. MILLER: They're all in, if I have to list
24 all the exhibits that we got in that reference them --

12:51PM

12:51PM

25 THE COURT: I don't think so. As an officer of

12:51PM

1 the Court, if --

12:51PM

2 MS. M. MILLER: -- testimony that's got it in.

12:51PM

3 THE COURT: No. If you're stating as an officer

12:51PM

4 the Court, that with regard to all of the air -- whatever --

12:51PM

5 what do they call -- registration numbers of those air -- air

12:51PM

6 -- helicopters --

12:52PM

7 MS. M. MILLER: Yes.

12:52PM

8 THE COURT: -- or aircrafts, if they have been

12:52PM

9 discussed during the course of the trial, then they're in.

12:52PM

10 MS. M. MILLER: Yes.

12:52PM

11 THE COURT: Ms. McConwell, see she's already

12:52PM

12 indicating that.

12:52PM

13 MS. MCCONWELL: Well, yeah, I understand the

12:52PM

14 ruling. I just don't agree with her that all 35 have been --

12:52PM

15 have been discussed or admitted into some type of evidence.

12:52PM

16 THE COURT: Okay. Well, I mean, when -- when it

12:52PM

17 comes up during trial, I mean, if he testifies, and you say

12:52PM

18 that's not been admitted then we have to do the search, but

12:52PM

19 just make sure you know what your specific --

12:52PM

20 MS. MCCONWELL: Right. I'm going to do that --

12:52PM

21 THE COURT: Make sure you know your specific

12:52PM

22 objection. All right. Are we ready --

12:52PM

23 MS. M. MILLER: We're ready.

12:52PM

24 THE COURT: Yes, Mr. Martin?

12:52PM

25 MR. MARTIN: Your Honor, just take a second if we

12:52PM

1 compare that to paragraph 126 to make sure that they're all in
2 the indictment, if you'll just give us a moment.

3 THE COURT: I'm sorry, 126?

4 MR. MARTIN: It lists all -- it lists all the
5 aircraft that are the subject of this indictment in
6 paragraph 126, if we could just have a moment.

7 THE COURT: Okay. You got a moment. I'll give
8 you five minutes, and then we'll call in the jury, how is
9 that?

10 MR. MARTIN: Sure.

11 THE COURT: All you have to do is go in and do a
12 search, like pull up the indictment, stick in the OCR, put in
13 the numbers. That should do it, I believe. Is that right,
14 Emily? Is that right? They could just take -- they have the
15 indictment they could just do the OCR search? Stick it --
16 okay.

17 Can you tell the jury five more minutes?

18 (Pause.)

19 MR. MARTIN: May I visit with the government a
20 minute, Your Honor?

21 THE COURT: Yeah, that's fine.

22 (Counsel conferred.)

23 THE COURT: You guys okay? So --

24 MS. M. MILLER: Your Honor, we're comparing what
25 Mr. Martin gave us with our list. There are some helicopters

1 that are on that list that are not specifically mentioned in 12:59PM
2 the indictment, Your Honor. However, we would argue that 12:59PM
3 those are still relevant under Count 1 because they show the 12:59PM
4 evidence of the attempt to defraud the FAA and the NTSB. We 12:59PM
5 would also refer the Court to the jury instruction you're 01:00PM
6 going to give about charged and uncharged conduct, so these 01:00PM
7 are helicopters that are absolutely owned by Hansen 01:00PM
8 Helicopters, Jon Walker, or one of the affiliated 01:00PM
9 corporations. 01:00PM

10 These are accidents that occurred during the 01:00PM
11 course of and in furtherance of the conspiracy to defraud the 01:00PM
12 FAA and the NTSB. And these are also helicopters that were 01:00PM
13 identified by Mr. Guzzetti in August of 2020. So in terms of 01:00PM
14 notice of these accidents, that has been given to the 01:00PM
15 Defendants. We will, of course, as we already said, redact 01:00PM
16 any reference to serious bodily injury or death from all of 01:00PM
17 those accidents so that the 403 aspect of it is addressed. 01:00PM
18 But in terms of the 401 aspect of it, the government believes 01:00PM
19 that this entire chart should come in with that exception. 01:00PM

20 THE COURT: All right. So let me just say, the 01:00PM
21 Court 's ruling is this: That my prior -- my order that I 01:00PM
22 issued earlier stands. Any -- let me just pull this chart. 01:00PM
23 Any registered helicopter on Column 1 that's neither -- that's 01:01PM
24 neither listed in the grand jury Second Superseding Indictment 01:01PM
25 nor discussed during trial will not be allowed. That's it, 01:01PM

1 period. Does that -- you understand what my ruling is? 01:01PM

2 MS. M. MILLER: And when you say discussed during 01:01PM
3 trial, so Mr. Sprayberry during his testimony, he actually 01:01PM
4 identified the total number of accidents that the Defendants 01:01PM
5 were involved in. He was using this particular chart to 01:01PM
6 identify those number of accidents. 01:01PM

7 And so we would argue that that evidence has, in 01:01PM
8 fact, already come in. And that -- when he was cross-examined 01:01PM
9 on that by Mr. McConwell and Mr. McConwell asked him, Well, 01:01PM
10 isn't it true that Hansen's operation is a relatively safe 01:01PM
11 operation? Mr. Sprayberry responded, no, their record is 01:01PM
12 abysmal, I believe is the word he used, Your Honor. And then 01:01PM
13 he specifically said they've had over 35 accidents. And so 01:02PM
14 that testimony has already come in, and it was not stricken. 01:02PM

15 THE COURT: All right. So let me just say, even 01:02PM
16 if Sprayberry said there were 35 or 105, bottom line is, in 01:02PM
17 terms of notice, the Court believes that notice has to be 01:02PM
18 given in term of specific numbers. 01:02PM

19 MS. M. MILLER: And we did in August of 2020. 01:02PM

20 THE COURT: No, I said it has to be within either 01:02PM
21 in the grand jury indictment, or in the trial itself. In the 01:02PM
22 testimony. So if Sprayberry said there were 35 accidents or 01:02PM
23 12 accidents that caused whatever it caused and these are the 01:02PM
24 registered numbers, then the Court will allow that in. I 01:02PM
25 don't want to have to get into all this discovery dispute 01:02PM

1 stuff that is arising here. So that -- to that extent, unless 01:02PM
2 it's -- let me just repeat this, unless it's in the grand jury 01:02PM
3 indictment specifically listed, or unless it's testified 01:02PM
4 during the trial itself, specifically mentioned by any 01:02PM
5 witness, it won't come in. So basically, if it's -- if it 01:03PM
6 hasn't been either of those -- in either of those situations, 01:03PM
7 then delete them. 01:03PM

8 MS. M. MILLER: Okay. 01:03PM

9 THE COURT: Okay. It just keeps it simple. So 01:03PM
10 the Court has ruled in your favor defense. Did you just hear 01:03PM
11 my ruling? 01:03PM

12 MS. MCCONWELL: Yes. 01:03PM

13 MR. MARTIN: I think we might need to get with 01:03PM
14 the government and decide if there is any modifications that 01:03PM
15 need to be made. 01:03PM

16 THE COURT: Okay. Then talk to them. But you -- 01:03PM
17 but did you understand my ruling, Mr. Martin? 01:03PM

18 MR. MARTIN: Yes, I did, Your Honor. 01:03PM

19 THE COURT: So if you need to go further -- 01:03PM

20 MR. MARTIN: And I appreciate it. 01:03PM

21 THE COURT: Well, don't worry about it. You 01:03PM
22 don't have to tell me -- 01:03PM

23 MR. MARTIN: I understand what you said when you 01:03PM
24 ruled in our favor, and that's why I think we need to talk to 01:03PM
25 the government. 01:03PM

1 THE COURT: Well, you know, I'm ruling in favor
2 of notice. I'm not trying to --

3 MR. MARTIN: No, I understand, Judge.

4 THE COURT: Go ahead. Continue on, I guess
5 you're going to keep trying to whittle it down.

6 (Counsel conferred.)

7 MS. M. MILLER: So, Your Honor, we have an
8 agreement on the first four helicopters that are listed in
9 Mr. Guzzetti's chart based on your order that if they are not
10 in the indictment, and they weren't specifically brought up at
11 trial --

12 THE COURT: Okay. Good.

13 MS. M. MILLER: -- that they should be out. What
14 we do not have an agreement on is the RPC helicopters that
15 were involved in accidents here. Ms. McConwell is saying even
16 if they have come up in trial, multiple times, she doesn't
17 agree they should be on there, and I don't agree with that.
18 So for example, 40 --

19 THE COURT: Okay. I think it's clear. It
20 doesn't matter to me. The -- the thing is, I've already made
21 my ruling. I think it's pretty simple. Either they're
22 notified -- notice in the indictment or they're testified to
23 in trial as it relates to Count 1, the Court is going to
24 allow. I think it's pretty simple. Yes, Ms. McConwell?

25 MS. MCCONWELL: Well, just --

1 THE COURT: Can you get on to the mic? Pull the
2 mic over.

3 MS. MCCONWELL: Yes, yes. So with the exception
4 of the RPC4910 with the accident date listed as 5-30-2017, we
5 objected to the rest of those RPC. Ms. Miller is saying her
6 -- the reason that those should come in is because they
7 appeared on 3003-14. And there's -- and I don't agree that
8 those should be in there's no testimony about -- that was a
9 bulk sale document, that was a bill of sale, and that doesn't
10 have anything to do with any type of accident. A number of
11 the other aircraft on there --

12 THE COURT: Okay. Let's stop then. All right.
13 So let me -- let me go back, and maybe let me make it even a
14 little more clear. To the extent that the registered
15 helicopter or aircraft, I guess it's all helicopters, but just
16 in case I don't -- is it all helicopters, right?

17 MS. M. MILLER: It's all helicopters.

18 THE COURT: Right. So to the extent that these
19 registered helicopters listed in Column 1 have been noticed in
20 the grand jury indictment as indicated in the order that I had
21 issued earlier, or has been testified during the trial as it
22 relates to Count 1 , the conspiracy, then the Court will allow
23 it. Now, what is it that -- that you don't -- because the
24 prosecutor is saying they're only going to introduce -- and
25 it's the second category, what was testified in trial. If

1 there was a testimony in trial about accidents or -- not --
2 well, any -- accidents or any type of death or anything that
3 relates to Count 1 and the conspiracy, then the Court will
4 allow it.

5 MS. MCCONWELL: So the testimony was relating to
6 the Counts 99 through 110 for those particular counts for the
7 wire fraud, and the money laundering, and the conspiracy to
8 commit -- I mean, this is what we've just been talking about
9 with Mr. Khamvongsa for a couple of days.

10 THE COURT: No, but they're talking about Count
11 -- okay. So I'm sorry, what is the objection? I'm not sure.

12 MS. MCCONWELL: I'm just saying I don't believe
13 that those aircraft have been discussed and identified as it
14 relates to Count 1. I think those aircraft were identified as
15 a bill of sale and a bulk sale as part of Mr. Khamvongsa's
16 testimony, and Mr. Khamvongsa's testimony related to Counts 99
17 through 110, not to Count 1.

18 THE COURT: Well are they -- let me just ask, is
19 the witness, Mr. Guzzetti, going to discuss those particular,
20 is it RP --

21 MS. M. MILLER: Yes, RPC4910.

22 THE COURT: Is she -- is he going to testify
23 about testimony that has come out and it relates to Count 1?

24 MS. M. MILLER: Count 1.

25 THE COURT: All right.

1 MS. M. MILLER: All Count 1. As a matter of
2 fact, Your Honor.

3 THE COURT: Okay. We got it.

4 MS. M. MILLER: Obviously, you don't have
5 Counts 99 through 110 without Count 1. The conspiracy to
6 defraud, the underlying actions, are all about the fraud
7 against the FAA and the NTSB. So yes, this all comes in under
8 Count 1. And when you look at Exhibit 3003-14, what was so
9 relevant about that on 15 is that the Defendants were even
10 describing these aircraft as being scrapped, not airworthy
11 because of the fact that they were in accidents, incidents,
12 destroyed. So obviously, this is all related to Count 1.

13 MR. MARTIN: Your Honor, we don't know why they
14 were described that way, Ms. Miller can say what she wants,
15 and she's been doing it throughout the trial, but the deal is
16 --

17 MS. M. MILLER: I object and move to strike that
18 comment, Your Honor.

19 MR. MARTIN: -- you don't know why that was
20 written that way, Ms. Miller.

21 THE COURT: Okay. I'll rule at that time. Go
22 ahead. What?

23 MR. MARTIN: Counts -- the RPC aircraft, with the
24 exception of, I believe it's 4910 --

25 MS. MCCONWELL: Well, the 2017 accident of 4910.

1 MR. MARTIN: Well, anyway with the exception of 01:10PM
2 RPC4910, have only been described in an exhibit, which is 01:10PM
3 3003.14, which today I cross-examined Mister -- Agent 01:10PM
4 Khamvongsa about, and they were not about accidents or 01:10PM
5 incidents. They were about the fact that they were in a bulk 01:10PM
6 bill of sale between Jan's and Pacific Spotters, and not that 01:10PM
7 they were involved in any accidents. I believe the only one 01:10PM
8 that's been testified about that was involved in any accident 01:10PM
9 is RPC4910. 01:10PM

10 THE COURT: Okay. 01:10PM

11 MS. M. MILLER: Your Honor, that's -- 01:10PM

12 THE COURT: Hold on, hold on, hold on. Let me 01:10PM
13 just say, but conspiracy to defraud the United States under 01:10PM
14 Count 1 is broader than that. They're talking about -- 01:10PM

15 MS. M. MILLER: Yes. 01:10PM

16 THE COURT: And you see that on the object of the 01:10PM
17 conspiracy, paragraphs 46 and 47. It's not just deaths, it's 01:10PM
18 serious injuries and so forth. 01:10PM

19 MR. MARTIN: What we're saying is, Your Honor, 01:10PM
20 that the only testimony that's come out about those 01:11PM
21 helicopters was under Counts 99, conspiracy to commit wire 01:11PM
22 fraud, wire fraud, and money laundering. 01:11PM

23 MS. M. MILLER: No. 01:11PM

24 MR. MARTIN: Not Count 1. 01:11PM

25 MS. M. MILLER: That is wrong and let me tell you 01:11PM

1 why. We brought in Count 1, Mr. Prozik testified about the 01:11PM
2 fact that we found the Philippine authorities had issued the 01:11PM
3 cease and desist order for all of those RPC aircraft that are 01:11PM
4 in Mr. Guzzetti's chart. And that cease and desist order, 01:11PM
5 Your Honor, was because of the Defendants' violation of the 01:11PM
6 Philippine authorities rules. 01:11PM

7 We also, Your Honor, brought to the Defendants' 01:11PM
8 attention that these RPC-numbered helicopters were registered 01:11PM
9 in the U.S. with the FAA at the same time that they were being 01:11PM
10 operated in the Philippines. We provided defense Counsel with 01:11PM
11 a chart showing the N-Number of these helicopters. We 01:11PM
12 provided them with a chart showing the registered owner of the 01:12PM
13 helicopters being one of the shell companies that this Court 01:12PM
14 has already ruled could be considered an alter ego of the 01:12PM
15 Defendant, and we provided them with a chart showing all of 01:12PM
16 the ones that were dual registered. 01:12PM

17 So the evidence that has come in regarding these 01:12PM
18 is much, much more substantial than what Mr. Martin and Ms. 01:12PM
19 McConwell is saying. I could cite to the Court to G-355. I 01:12PM
20 could cite to the Court to G-1252. I could cite the Court to 01:12PM
21 Defense Exhibit 124, where Mr. McConwell actually identified a 01:12PM
22 number of these aircraft and said that they intend to 01:12PM
23 reregister them in the Philippines. I cite the Court to 01:12PM
24 Mr. Marty's testimony from the Philippines, which I know is a 01:12PM
25 long time ago, Your Honor. But when Mr. Marty testified, 01:12PM

1 Mr. Marty testified about these helicopters. So this evidence
2 is substantial, and it did not just come in in the last few
3 days with Mr. Khamvongsa. We started with our first witness,
4 Special Agent Prozik, who talked about how these very
5 helicopters were used by the Defendants to defraud the FAA.

6 THE COURT: All right. Let me -- hold on a
7 second. Hold on. Let me just check something on the
8 conspiracy.

9 MS. M. MILLER: And we say in our conspiracy
10 allegation defrauding other civil aviation authorities is part
11 of the modus operandi of the Defendants.

12 THE COURT: Okay. Hold on. Yeah. Defense, real
13 quickly, because -- or Ms. McConwell, you want to go?

14 MS. MCCONWELL: Yes, Your Honor, because I had
15 one more that I didn't want to lose site of. On N74LD, I
16 don't have that something's been admitted about that, and I've
17 just run through, did that OCR of the government's exhibit
18 list, and I don't see that there is an exhibit that's been
19 admitted about that aircraft at all.

20 THE COURT: You know, let me just ask you, are
21 you going to try to push this summary chart right now? I mean
22 -- is he going to be able to speak without the summary chart?

23 MS. M. MILLER: I could go around -- I could go
24 around the summary chart.

25 THE COURT: Why don't you go around the summary

1 chart for now, and then let's get back to -- because I think
2 it's delaying.

3 MS. M. MILLER: I could do that -- I could do
4 that.

5 THE COURT: Let me just say, like I said, to the
6 extent that it is part of conspiracy one, which it sounds like
7 it is, I -- I think it's going to be okay. Yeah, I think it's
8 going to be fine so that the prosecution lets this in. Now
9 let me also say, Counsels, from now on, if you guys have
10 something to submit to the Court, make sure you file it.
11 Don't send it to me in chambers. I don't need to have a
12 chitchat with you all. I mean, unless it's a procedural
13 matter with my -- with my clerk or something, they can handle
14 it. But -- but this is, you know, the last substantive e-mail
15 that was submitted by Samantha Miller, and then the responses,
16 I'd rather you guys put that through, put it on the docket
17 because that's actual -- that's actually a part of the record,
18 the appellate record, if there is going to be an appeal.

19 MS. M. MILLER: Yes, Your Honor.

20 THE COURT: All right. So, Counsels, remember
21 that. All right. Let's go ahead and call in the jury. I --
22 so the Court has not ruled on the summary chart yet. But, I
23 -- I mean, part of it I do think is relevant, and I will allow
24 it. But since you all are still concerned about certain parts
25 of it, we'll just hold off on that. The prosecution is not

1 going to -- the prosecution is not going to proceed forward 01:15PM
2 with it at -- right at this time. So let's let Mr. Guzzetti 01:15PM
3 begin. And then we will see what happens. It is now 1:20. 01:15PM
4 So let's try to go straight through. 01:15PM

5 MS. M. MILLER: We'll go straight through till 01:15PM
6 4:00? 01:15PM

7 THE COURT: As long as the jurors are not too... 01:15PM
8 Mr. Guzzetti has already been sworn in on 01:16PM
9 June 6th. 01:16PM

10 MS. M. MILLER: He was. 01:16PM

11 THE COURT: Is that D-Day? 01:16PM

12 (Pause.) 01:16PM

13 THE COURT: What's today? 01:16PM

14 THE WITNESS: Today is World Helicopter Day, 01:16PM
15 believe it or not. 01:16PM

16 THE COURT: Is it really? 01:16PM

17 THE WITNESS: Yes, it is. 01:16PM

18 THE COURT: Oh, my gosh. I love it. 01:16PM

19 MS. M. MILLER: You're kidding. 01:16PM

20 THE WITNESS: Nope. 01:16PM

21 THE COURT: Is it really, or are you just joking? 01:16PM

22 THE WITNESS: Nope, Google it. World Helicopter 01:16PM
23 Day. 01:16PM

24 THE COURT: See that? How ironic. You have to 01:16PM
25 tell -- celebrate helicopters. 01:16PM

1 MS. M. MILLER: So just so there is no confusion 01:16PM
2 and panic, there is a chart that he prepared about the 01:16PM
3 pre-Hansen ownership accidents that I will get in pretty early 01:16PM
4 on in his testimony, Your Honor, but I won't go into the 01:16PM
5 post-ownership ones. 01:16PM

6 THE COURT: Okay. So we'll call in the jury, and 01:17PM
7 yeah, it's now 1:17. We'll take -- we'll take a break after 01:17PM
8 one hour and a half. Or maybe even earlier, just let me know. 01:17PM
9 We've been going since -- wow, world helicopter day. I didn't 01:17PM
10 know there was such a thing. 01:17PM

11 MS. S. MILLER: Make days for everything now. 01:17PM

12 THE COURT: I'm just trying to think how many 01:17PM
13 helicopters that I rode in my life. One. 01:17PM

14 MS. M. MILLER: One? I flew one. 01:17PM

15 THE COURT: On, like... 01:17PM

16 MS. M. MILLER: Like flew it. 01:17PM

17 THE COURT: Like you piloted it? 01:17PM

18 MS. M. MILLER: Yeah. 01:17PM

19 THE COURT: Wow. I believe that. 01:17PM

20 MS. M. MILLER: Yup. It wasn't -- it wasn't one 01:17PM
21 like the ones in this case. It was like a \$20 million 01:17PM
22 helicopter. 01:17PM

23 THE COURT: Oh my God. I was a passenger. 01:17PM
24 Actually, my father-in-law was a pilot. 01:18PM

25 MS. M. MILLER: Helicopter pilot? 01:18PM

1 THE COURT: Yeah. In the war. Please rise. 01:18PM

2 (Jury in at 1:18 p.m.) 01:18PM

3 THE COURT: This is definitely your last witness? 01:18PM

4 MS. M. MILLER: Yes. 01:18PM

5 MS. S. MILLER: Definitely? 01:18PM

6 MS. M. MILLER: Well, you know, I mean, barring 01:18PM

7 some weird strange thing, which with this case, you never 01:18PM

8 know. 01:18PM

9 THE COURT: Please be seated. Welcome back, 01:18PM

10 ladies and gentlemen of the jury. Thank you for your 01:18PM

11 patience. I actually had to speak with the lawyers on very 01:18PM

12 important issue and -- or issues. And so we worked through 01:18PM

13 all the time since we last saw you this morning. So the 01:18PM

14 prosecution will call their next witness who has already been 01:18PM

15 previously sworn in. 01:18PM

16 MS. M. MILLER: Yes, Your Honor. 01:18PM

17 THE COURT: You may proceed. 01:18PM

18 MS. M. MILLER: At this time, the government will 01:18PM

19 continue with Mr. Guzzetti. And good afternoon, members of 01:19PM

20 the jury. 01:19PM

21 (End of excerpt.)

22 * * *

23

24

25

CERTIFICATE OF OFFICIAL REPORTER

CITY OF HAGATNA)
) ss.
TERRITORY OF GUAM)

I, Veronica F. Flores, Official Court Reporter for the District Court of Guam, do hereby certify the foregoing pages, 1 to 1,310, to be a true and correct transcript of the proceedings held in the above-entitled matter to the best of my ability.

Dated this 9th day of March 2023.

/s/Veronica F. Flores
Veronica F. Flores